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REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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- 1) Heading of the Part: Diversifying Higher Education Faculty in Illinois Program
- 2) Code Citation: 23 Ill. Adm. Code 1080
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1080.100	New Section
1080.110	New Section
1080.200	New Section
1080.210	New Section
1080.220	New Section
1080.230	New Section
1080.300	New Section
1080.310	New Section
1080.320	New Section
1080.330	New Section
- 4) Statutory Authority: Implementing and authorized by the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930].
- 5) A Complete Description of the Subjects and Issues Involved: BHE is proposing rules to implement the provisions of P.A. 93-0862. P.A. 93-0862 amends the Illinois Consortium for Educational Opportunity Act [110 ILCS 930] by changing the short title to the Diversifying Higher Education Faculty in Illinois Act, revising the definition of a "qualified institution of higher education," establishing a Program Board, and other matters.

The rules established under the former Illinois Consortium for Education Opportunity Program (ICEOP), 23 Ill. Adm. Code 2400, serve as the basis for this proposed rulemaking. The substantive changes necessary to implement P.A. 93-0862 as outlined in this new Part, include:

- Updating the Part to reflect the new short title established by P.A. 93-0862, "Diversifying Higher Education Faculty in Illinois Act" and subsequently referred to as DFI.
- Updating the definition of "Program Board" and "Qualified Institution of Higher Education" pursuant to the Act. Added a definition for "Institutional Representative" for clarification purposes.
- Outlining the Board (BHE) responsibilities as well as Program Board composition and responsibilities to clearly define the roles of each Board.

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- Clarifying that the institution shall commit to providing leadership, information, and placement opportunities for DFI fellows.
 - Requiring that all DFI fellows will pursue their post-baccalaureate degree as a full-time student, as defined by the institution, for at least 9 months of the year.
 - Specifying that participants of the former ICEOP programs shall be governed by the statutory provisions and rules governing the program at the time of their admission. The former ICEOP rules are retained as Part 2400 to govern those grant recipients awarded funds under that program.
- 6) Will this proposed amendment replace an emergency rule 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 on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed rule does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:
- Sandi Gillilan, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
- 217/557-7352
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: No obligations have been proposed that will affect small businesses, small municipalities and not for profit corporations. The Program provides financial assistance grants to individuals for graduate study at a qualified institution of higher education as defined by the Act.
- 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 on which this rulemaking was summarized: January 2005

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

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NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1080

DIVERSIFYING HIGHER EDUCATION FACULTY IN ILLINOIS PROGRAM

SUBPART A: GENERAL

Section

- 1080.100 Purpose
- 1080.110 Definitions

SUBPART B: PROGRAM ADMINISTRATION

Section

- 1080.200 Board of Higher Education Responsibilities
- 1080.210 Program Board Composition
- 1080.220 Program Board Responsibilities
- 1080.230 Institution and Institutional Representative Responsibilities

SUBPART C: APPLICATION AND AWARD PROCESS

Section

- 1080.300 Student Eligibility
- 1080.310 Student Fulfillment of the Conditions of the Award
- 1080.320 Application Procedures
- 1080.330 Determining and Administering Awards

AUTHORITY: Implementing and authorized by the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930].

SOURCE: Adopted at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1080.100 Purpose

- a) This Part provides for the administration of the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930] and the program of financial assistance

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under this Act called the Diversifying Higher Education Faculty in Illinois Program (DFI). DFI combines two former programs, the Illinois Consortium for Educational Opportunity Program (ICEOP) and the Illinois Minority Graduate Incentive Program (IMGIP).

- b) The purpose of the DFI Program is to *encourage minority students to enroll and complete academic programs at the post-baccalaureate level and to enhance the diversity of faculty and professional staff at Illinois higher education institutions and agencies.* (Section 6 of the Act) Only full-time students with a demonstrated financial need are awarded this highly competitive fellowship.

Section 1080.110 Definitions

"Academic Year" means the period of time beginning with the fall term in one calendar year and running through the end of the summer term in the following calendar year.

"Act" means the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930].

"Board" means the Board of Higher Education. (Section 2 of the Act)

"Program Board" means the 21-member entity appointed by the Board to establish policy for administration of the grant program authorized by the Act. (Sections 3 and 4 of the Act)

"Institutional Representative" means the designated individual who is responsible for coordinating DFI activities at each qualified institution of higher education.

"Illinois Resident" means any United States citizen or lawful permanent resident alien of the United States who meets at least one of the following requirements:

Has earned an educational diploma at an institution of education located in this State; or

Is a registered voter in the State of Illinois and has lived in Illinois for a period of at least three years prior to applying for a grant. (Section 7 of the Act)

The status of the Illinois residency of the student at the time of initial

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matriculation in this program will hold for his or her entire time in his or her graduate or professional study at the DFI institution.

"Qualified Institution of Higher Education" means a qualifying publicly or privately operated educational institution located within Illinois that offers instruction leading toward or prerequisite to an academic or professional degree beyond the baccalaureate degree, excluding theological schools, and that is authorized to operate in the State of Illinois. (Section 2 of the Act)

"Traditionally Underrepresented Minority Group" means any of the racial minority groups designated in the Act that are represented in Illinois post-baccalaureate enrollment at a percentage rate less than the percentage of the racial minority group's representation in the total Illinois population. The Board shall annually determine which racial groups are underrepresented based upon census data and annual graduate enrollment reports from Illinois institutions of higher education.

SUBPART B: PROGRAM ADMINISTRATION

Section 1080.200 Board of Higher Education Responsibilities

- a) *The Board of Higher Education shall appoint the 21 members of the Program Board. (Section 3 of the Act)*
- b) The Board shall name the Chair of the Program Board.
- c) The Board shall disseminate information regarding the DFI program.
- d) *The Board shall provide administrative assistance for the Program Board.*
- e) *The Board shall distribute funds appropriated by the General Assembly for the DFI Program in accordance with decisions made by the Program Board. (Section 6 of the Act)*

Section 1080.210 Program Board Composition

- a) Program Board members shall serve 2-year terms and will continue to serve until replacement or reappointment is determined. There are no term limits.
- b) The Program Board shall name the Vice-Chair and make any necessary

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subcommittee appointments.

Section 1080.220 Program Board Responsibilities

- a) The Program Board shall be responsible for:
 - 1) establishing policies and program guidelines for the operation of the DFI grant program.
 - 2) prioritizing fields of study for awarding DFI funds annually.
 - 3) creating the application materials and setting application deadlines.
 - 4) *reviewing and approving applications for participation in the DFI grant program.*
 - 5) *establishing criteria to promote placement of DFI fellows.*
 - 6) *reporting annually to the Board on program outcomes and results.*
(Section 4 of the Act)
- b) The Program Board shall meet at least three times per year.
- c) Program Board members are expected to consistently attend Program Board meetings.

Section 1080.230 Institution and Institutional Representative Responsibilities

- a) A DFI institution shall:
 - 1) be a qualified institution of higher education as defined in the Act;
 - 2) commit to providing leadership, information, and placement opportunities for DFI fellows; and
 - 3) designate an institutional representative.
- b) A DFI institutional representative shall:
 - 1) actively recruit students who will be eligible for DFI awards and verify to

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the Program Board that applicants for DFI financial assistance meet all eligibility requirements;

- 2) maintain records for award recipients, including program application materials, contracts and records of award payments;
- 3) provide award recipients with academic and support services, such as mentoring, counseling, and other activities that would enhance the chances for degree completion and success in achieving the goals of the program;
- 4) supervise payment of awards from the funds awarded by the Program Board;
- 5) collect, process and forward to the Program Board by the announced deadline each Spring all new applications and renewal forms from eligible students; and
- 6) assist award recipients who complete their program of study in seeking a full-time teaching or administrative position in an Illinois institution of higher education or a full-time position as an employee of this State in an education-related capacity. Such positions may include, but shall not be limited to, administrative positions in State elementary/secondary and higher education agencies.

SUBPART C: APPLICATION AND AWARD PROCESS

Section 1080.300 Student Eligibility

- a) For a student to be eligible to participate in the DFI grant program, the student shall establish and the applicable institution shall verify that the student applicant meets the following criteria:
 - 1) *he or she is an Illinois resident as defined in the Act;*
 - 2) *he or she is a citizen or lawful permanent resident alien of the United States;*
 - 3) *he or she is a member of a racial minority as defined in the Act;*
 - 4) *he or she has earned a baccalaureate degree from an accredited*

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institution of higher education;

- 5) he or she has been admitted as a student pursuing a doctoral, master's, or post-baccalaureate professional degree and will pursue this degree objective as a full-time student, as defined by the institution, for at least 9 months of the year;
 - 6) he or she has signed an agreement to meet the Act's employment conditions if a DFI award is accepted;
 - 7) *his or her financial resources are such that in the absence of a DFI grant the individual will be prevented from pursuing a graduate or professional degree at the institution; and*
 - 8) *he or she has above-average academic ability to pursue a graduate or professional degree* (Section 7 of the Act), as evidenced by the following:
 - A) minimum grade point average of C+ (2.75 on a grade scale of 4.00 = A) in the last 60 hours of undergraduate work; and
 - B) admission to a post-baccalaureate degree program at a qualified institution of higher education as defined in the Act.
- b) In order to maintain eligibility in the program and in order to be considered for subsequent DFI grants, an awardee must meet scholastic requirements and eligibility for financial assistance as required by the institution in which she or he is enrolled as a DFI participant.

Section 1080.310 Student Fulfillment of the Conditions of the Award

- a) *As a condition for acceptance of the award, the recipient shall agree to the following:*
 - 1) *Accept a teaching or nonteaching full-time appointment at an Illinois institution of higher education; or*
 - 2) *Accept a position as an employee of this State in an administrative, education-related position, as determined by the Program Board. Such positions shall include, but shall not be limited to, administrative positions in State elementary/secondary and higher education agencies; or*

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- 3) Make a good faith effort to secure such position for a time period of no less than 5 years. A good faith effort includes actively seeking employment and maintaining contact with the institutional representative and Program Board.
- b) *The recipient shall accept such positions for a period equal to the number of years that he or she was a participant in the DFI grant program. (Section 10 of the Act)*
- c) Failure of the recipient to fulfill the award conditions as provided for in subsection (a) or (b) shall require the recipient to repay 20 percent of the total amount of the award on a ten-year repayment schedule.
- d) All grants shall be subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705].
- e) *Program participants admitted under the provisions of the former Illinois Consortium for Educational Opportunity Program shall be governed by the statutory provisions and rules governing the program at the time of their admission. (Section 11.5 of the Act)*

Section 1080.320 Application Procedures

- a) The Board or its administrative designee shall disseminate information about the DFI grant program to qualified institutions of higher education for distribution.
- b) A student shall apply directly to the qualified institution of higher education that he or she plans to attend. All new applications and renewal forms shall be submitted by the institution on behalf of the student to the Program Board with the institution's verification and endorsement.

Section 1080.330 Determining and Administering Awards

- a) In determining the recipients of the awards, the Program Board shall:
 - 1) consider only members of traditionally underrepresented minority groups who are underrepresented in particular fields of study;

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- 2) favor recipients who received awards in previous years who maintain conditions of eligibility as enumerated in Section 1080.300 and have made satisfactory academic progress toward a degree, as determined by each institution, provided that no student shall receive assistance for more than four years.
- b) In administering the award, the Program Board shall:
- 1) *determine the award amount annually* (Section 9 of the Act);
 - 2) direct the Board to deliver the awards to the institution to disburse to the recipients, conditioned upon the recipients' satisfactory academic progress; and
 - 3) attempt to achieve distribution of the awards among qualified institutions of higher education so that the awards are distributed equitably within fields of study and geographic locations in the State of Illinois and between public and private institutions of higher education.
- c) Grant funds shall be distributed by the institutions to grantees during the period of DFI enrollment, not to exceed 12 months per award.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
2520.405	New Section
2520.700	Amendment
2520.770	Amendment
2520.APPENDIX C	New Section
2520.APPENDIX D	New Section
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 7A-102(B) of the Illinois Human Rights Act [775 ILCS 5/7A-102(B)], a respondent's failure to file a verified response within 60 days from receipt of a charge without good cause shall result in the issuance of a notice of default. Pursuant to Public Act 94-326 (effective July 26, 2005), this proposed amendment defines good cause for failing to file a timely verified response. This proposed amendment also enacts a procedure for a complainant to contest, and the Department to review, a respondent's untimely filed verified response.

Pursuant to Section 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], every State executive department, agency, board, commission, and instrumentality must comply with the Department's Rules and Regulations concerning equal employment opportunities and affirmative action. The proposed amendments clarify that State agencies must follow the procedures established by the Department when preparing a layoff report, and identify the information and documentation required by the Department. The proposed amendments also add definitions for the terms "layoff" and "region".
- 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

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NOTICE OF PROPOSED AMENDMENT

- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: The proposed amendment does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:
- Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601
- (312) 814-1906 or (312) 263-1579 (TTY)
- 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: July 2005

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

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2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

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<u>2520.405</u>	<u>Verified Response to Charge</u>
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)
2520.470	Conciliation (Repealed)

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2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

2520.550 Administrative Closure
2520.560 Dismissal
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

2520.573 Filing with Chief Legal Counsel
2520.575 Contents of Request for Review
2520.577 Notice by the Chief Legal Counsel
2520.580 Extensions of Time
2520.583 Reply to Request for Review and Surreply
2520.585 Additional Investigation
2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

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NOTICE OF PROPOSED AMENDMENT

Section

2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	Compliance Reviews
2520.797	Sanctions for Noncompliance

2520.APPENDIX A Contents of Affirmative Action Plans

2520.APPENDIX B Value Weight Assignment Chart

[2520.APPENDIX C Contents of Layoff Reports](#)

[2520.APPENDIX D Illinois Counties by Region](#)

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART C: PROCEDURE UPON CHARGE

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

Section 2520.405 Verified Response to Charge

- a) Pursuant to Section 7A-102(B) of the Act, within 60 days after receipt of the notice of the charge, respondent shall file a verified response to the allegations in the charge. Respondent shall serve a copy of the verified response on complainant or complainant's representative and shall show proof to the Department that the copy was served on complainant or complainant's representative.
- b) Where respondent's verified response is not timely filed and/or served on complainant or complainant's representative, complainant may raise that issue before the Department. The raising of an issue of an untimely filed and/or served verified response with the Department does not relieve complainant of complainant's duty to comply with the Department's investigation.
- c) Pursuant to Section 7A-102(B) of the Act, good cause for untimely filing a verified response may include, but shall not be limited to:
- 1) Death or sudden, serious illness of respondent or respondent's representative; or
 - 2) Death or sudden, serious illness of an immediate family member of respondent or respondent's representative; or
 - 3) Respondent filed and served a timely verified response, but the Department later determined that respondent's verified response was defective; or
 - 4) Respondent acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the verified response process, as supported by affidavit or other evidence; or
 - 5) Respondent's failure to timely file a verified response was due to circumstances beyond respondent's control, as supported by affidavit or other evidence. Whether good cause exists is in the sole discretion of the Department.
- d) Where respondent is responding to a notice to show cause for failing to timely file the verified response and/or timely serve a copy on complainant or complainant's

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

representative, respondent shall include the verified response with the response to the notice to show cause and show proof that respondent has served the verified response on complainant or complainant's representative.

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

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section 2520.700 Definitions

For purposes of this Subpart, the following terms shall have the meanings indicated:

Act – ~~The term "Act" shall mean~~ the Illinois Human Rights Act [775 ILCS 5].

Affirmative Action Group – ~~The term "affirmative action group" shall mean~~ any of the groups listed in ~~Section~~Sections 2520.720 or 2520.730 of this Part.

Agency – ~~The term "agency" shall mean~~ any instrumentality or facility of the executive branch of State government, as specified in Section 2520.710 of this Part.

Central Management Services – ~~The term "Central Management Services" shall mean~~ the Department of Central Management Services or any successor agency responsible for its functions.

Chief Executive Officer – ~~The term "Chief Executive Officer" shall mean~~ the director or other chief executive or administrator of any agency other than the Department.

Department – ~~The term "Department" means~~ the Department of Human Rights.

Director – ~~The term "Director" means~~ the Director of the Department.

Disability – ~~as~~As used in Section 2-105(b) of the Act, ~~"disability" means~~ a mental or physical condition (other than pregnancy), lasting six months or longer, that limits the amount or kind of work an individual can perform.

EEO – ~~The term "EEO" means~~ Equal Employment Opportunity.

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EEO/AA – ~~The term "EEO/AA" means~~ Equal Employment Opportunity/Affirmative Action.

EEO Job Categories – ~~The term "EEO job categories" refers to~~ the following eight categories: officials/managers; professionals; paraprofessionals; technicians; office/clerical workers; protective services workers; skilled craft workers; and service/maintenance workers.

EEO Officer – ~~The term "EEO Officer" means~~ the Equal Employment Opportunity Officer, whether full or part-time, appointed by a State agency pursuant to Section 2-105(B)(4) of the Act and Section 5220.780 of this Part.

Layoff – the placement of an employee in non-paid and non-working status without prejudice, either temporarily or for an indeterminate length of time. Layoff does not include, either temporarily or indeterminately, a means or form of discipline.

Minority – ~~The term "minority" or "minorities" refers to~~ those groups, or members of a group thereof, listed in Section 2520.720 or 2520.730 of this Part, other than women and disabled persons.

Numerical Goals – ~~The term "numerical goals" means~~ the number of members of an affirmative action group that which have been determined to be available to an agency for employment in each of the EEO job categories.

Petitioning Group – ~~The term "petitioning group" means~~ a chartered not-for-profit organization that is recognized by the community it purports to represent that which has as its purpose fostering the interests and well being of that community.

Plan – ~~The term "plan" shall mean~~ an affirmative action plan for employment as described in Section 2520.760.

Program Goals – ~~The term "program goals" means~~ a set of actions established to address affirmative action or EEO problems cited in the agency's plan.

Reasonable Accommodation – ~~The term "reasonable accommodation" as it relates to disabled employees and applicants, means~~ modification of the work site, work process and/or work schedule to enable a disabled person to perform the major functions of a specific job; however, such an accommodation cannot impose an

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undue hardship on the conduct of the business of the employer or labor organization.

Region – a group of adjacent counties. There are 11 regions within Illinois as identified in Appendix D of this Part.

Underutilized Category – a category ~~The term "underutilized category" means one~~ in which the number of employed members of an affirmative action group for which numerical goals have been set does not reflect the job availability of that group in the agency workforce in that EEO job category.

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

Section 2520.770 Reporting and Record-Keeping

- a) Employment Profiles – As required by Section 2-105(B) of the Act, each agency shall maintain data reflecting the composition of its workforce ~~in~~ at each ~~region~~geographical location, by race, national origin as specified by the Department, sex and disability, EEO job categories, and any other category which the Department may require by rule. This information shall be collected from the agency's employees through the use of a form, developed by Central Management Services and approved by the Director, which shall be completed by each employee and applicant for employment at his/her option. Central Management Services shall compile this data and furnish quarterly reports to each agency and the Department depicting the employment profile of each agency under the Personnel Code [20 ILCS 415]. Other agencies, and agencies under the Code having non-Code employees, shall compile this data themselves and provide it to the Department.
- b) Position Vacancies – Each agency shall maintain a centralized record detailing all its current and anticipated job openings, and indicating for each such opening the job title, EEO job category, pay grade or merit compensation level, and ~~region~~geographical location. This information shall be supplied to the agency's EEO Officer, and to the Department upon request. Every agency shall also post conspicuously in its offices all vacancies in nonexempt positions ~~that~~which the agency intends to fill, if the vacant position is one where the proportion of incumbents in one or more affirmative action ~~groups~~ group(s) is significantly less than the proportion of ~~those groups~~ such group(s) in the available local labor force. The posting shall also state that the agency is an Equal Opportunity Employer.

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- c) Quarterly Reports – No later than 15 working days after receipt of the CMS-DHR9 and CMS-DHR10 data information at the end of each fiscal quarter, every agency shall file with the Department a report. If an agency submits a written request for an extension within 15 working days after receipt of the CMS-DHR10 data information, the Director may grant an extension of up to 15 days. The report, signed by the EEO Officer and Chief Executive Officer, shall contain:
- 1) A current employment profile of each of the agency's departments or divisions by EEO job category and affirmative action groupsgroup(s) of the incumbents.
 - 2) A breakdown of all employment transactions for the previous quarter by EEO job category and the affirmative action groupsgroup(s) of the employeeemployee(s) affected.
 - 3) A statement on the agency's progress in meeting its numerical and/or program goals. If a numerical or program goal is not attained, the agency should provide an explanation for the failure to meet the goal.
 - 4) A list of vacancies, by EEO job category, classification, and pay grade or merit compensation level, that the agency intends to fill during the next quarter. Underutilized categories should be indicated.
 - 5) A narrative describing all charges and complaints of employment discrimination filed or pending against the agency during the previous quarter. The narrative should identify the regionfacility or geographical location out of which the charge or complaint was filed; the organization with whom it was filed; and the current status of the matter, including whether pending, withdrawn, settled or dismissed.
- d) Annual Reports – By August 15 of each year, every agency shall submit to the Department a report, signed by its EEO Officer and Chief Executive Officer. If an agency submits a written request for an extension before August 15, the Director may grant an extension of up to 30 days. The report shall include cumulative data for the full year of the same sort as required under subsection (c)(1) above, as well as a narrative by the agency's Chief Executive Officer describing the extent to which the agency's yearly numerical and program goals were achieved and the reasons for any unmet goals.

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- e) Federal Compliance Reports – Any agency ~~that~~~~which~~ is the subject of an EEO compliance review by the federal government shall forward to the Department a copy of any and all reports within 5 working days after the agency's receipt ~~of the~~ ~~report~~~~thereof~~.
- f) Orders and Settlements – Any agency ~~that~~~~which~~ is a party to any proceedings, whether judicial or administrative, and whether federal or ~~State~~~~state~~, involving allegations of employment discrimination shall forward to the Department a copy of any order, decree, settlement agreement or award ~~that~~~~which~~ decides or disposes of ~~thesueh~~ proceedings within 15 days after the entry ~~of the order, decree,~~ ~~settlement agreement or award~~~~thereof~~.
- g) Layoff Reports – Each agency shall prepare a layoff report outlining any intended layoff of incumbent employees, ~~in accordance with the procedures established in~~ ~~Appendix C~~. The report shall be submitted to the agency's EEO Officer and the Department not less than 30 days prior to the expected date of the layoff, unless emergency conditions necessitate a delay of the report; however, ~~the~~ ~~emergencysueh~~ conditions must be documented in the report. The report shall identify, by ~~region~~~~geographical location~~, job title and affirmative action group, the employees to be affected by the layoff. The agency's EEO Officer shall review the report to determine if the layoff will have an adverse impact upon minorities, women or disabled persons. The EEO Officer shall submit a written adverse impact report to the Chief Executive Officer and to the Director of his/her findings and, if adverse impact is found, suggested alternatives to lessen or eliminate ~~thesueh~~ impact. The Director of Central Management Services will not approve a layoff until the Director has indicated that the adverse impact report is correct.
- h) Reorganization Reports – Any proposed workforce reorganization ~~that~~~~which~~ significantly changes lines of authority, wages or job duties and descriptions on an agency-wide basis, or throughout any bureau, division or unit of the agency, must be described in a reorganization report and submitted to the agency's EEO Officer at least 30 days prior to implementation. The agency's EEO Officer shall review the report to determine whether it will have an adverse impact upon minorities, women or disabled persons, and shall submit an adverse impact report, within 15 days after receipt of the reorganization report, to the agency's Chief Executive Officer and the Department. If the EEO Officer determines that an adverse impact is apparent, he/she shall include in the adverse impact report recommendations to lessen ~~thesueh~~ impact.

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- i) Hiring and Promotion Monitor – A hiring and promotion monitor shall be developed by each agency and completed on all hires and promotions, indicating the EEO job category and classifications of the position and whether it is an underutilized category. The monitor shall also indicate the race, sex, whether disabled, and national origin of all persons considered for the position and of the candidate, and whether the candidate meets the affirmative action requirements for that category. If the candidate does not meet the affirmative action requirements for that category, a detailed explanation indicating the reasons for the desired selection must be completed by the hiring officer and attached to the monitor. No hire or promotion commitment shall be made until the agency EEO Officer, or designee, has reviewed and signed the monitor indicating approval of the transaction. Central Management Services shall not complete any hire or promotion transaction if it has not received the approved monitor.
- j) Exit Questionnaire – Each agency shall provide an exit questionnaire to employees at the time of their separation from employment, whether voluntary or involuntary. The questionnaire shall identify the employee by name and affirmative action group, job title and ~~region~~~~location~~, date of separation, and ~~reasons~~~~reason(s)~~ for separation, and shall include space for the employee's comments. Completion of the questionnaire shall be at the employee's option. Completed questionnaires shall be forwarded immediately to the agency's EEO Officer.

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

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Section 2520.APPENDIX C Contents of Layoff Reports

- a) When a State agency has at least 30 incumbents in the EEO job category within a particular region in which a layoff will take place and there are at least 5 members of a specific affirmative action group who are targeted for layoff, the completed projected layoff report shall contain the following:
- 1) The Certification Sheet. The certification sheet confirms the accuracy of the layoff report. A completed certification sheet must indicate the name of the agency, agency Chief Executive Officer, agency EEO/AA Officer, and effective date of the projected layoff. The Chief Executive Officer and EEO/AA Officer must sign and date the certification sheet. The Department's assigned agency liaison will sign and date the certification sheet upon receipt.
 - 2) The Projected Layoff Summary Form. The projected layoff summary form provides statistical data on the agency layoff by race, sex and disability. A completed form must indicate the agency name, the analysis date, and the date and source of workforce data. The form shall include: total employees before layoff and the total number of projected layoffs, by region; the number of persons laid off, by race, sex and disability; and, if necessary, adverse impact on any affirmative action group member.
 - 3) The Projected Layoff Analysis Form. The projected layoff analysis form is used to calculate whether adverse impact exists for a specific affirmative action group subject to the layoff. A form must be completed for each affirmative action group member affected by the layoff, when necessary. A completed form must indicate the agency name, region and affirmative action group member. The form must indicate, by EEO job category, total employees and number of employees projected to be laid off. A comparison of the layoff rate of the affirmative action group in question with the layoff rate of the comparison group will indicate the impact ratio to determine adverse or no adverse impact.
 - 4) The Narrative
 - A) The narrative must contain, but is not limited to, the following information:

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- i) the State agency's reasons for selecting the targeted positions for layoff;
 - ii) any provisions of the Illinois Personnel Code, personnel rules, and/or collective bargaining agreement governing the layoff;
 - iii) if the layoff decisions were made by seniority date, an explanation of any exceptions and the reasons for the exceptions;
 - iv) any alternatives to laying off the affected employees that were available to and considered by the agency; and
 - v) a discussion of any significant impact the layoff would have on a specific affirmative action group.
- B) If the report is being submitted less than 30 days prior to the effective date of the layoff, the narrative must set forth the emergency situation necessitating the layoff.
- 5) The agency's layoff plan shall identify, by region, job title, and affirmative action groups, the employees to be affected by the layoff.
- 6) A summary workforce analysis (Form CMS-DHR9) for the region where the layoff will occur.
- b) When there are fewer than 30 incumbents in the EEO job category within a particular region in which a layoff will take place or there are fewer than 5 members of a specific affirmative action group who are targeted for layoff, the completed projected layoff report shall contain the following:
- 1) The Certification Sheet. The certification sheet confirms the accuracy of the layoff report. A completed certification sheet must indicate the name of the agency, agency Chief Executive Officer, agency EEO/AA Officer, and effective date of the projected layoff. The Chief Executive Officer and EEO/AA Officer must sign and date the certification sheet. The Department's assigned agency liaison will sign and date the certification sheet upon receipt.

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- 2) The Projected Layoff Summary Form. The projected layoff summary form provides statistical data of the agency layoff by race, sex and disability. A completed form must indicate the agency name, the analysis date, and the date and source of workforce data. The form shall include: total employees before layoff and the total number of projected layoffs, by region; the number of persons laid off by race, sex and disability; and, if necessary, adverse impact on any affirmative action group member.
- 3) The Narrative
 - A) The narrative must contain, but is not limited to, the following information:
 - i) the State agency's reasons for selecting the targeted positions for layoff;
 - ii) any provisions of the Illinois Personnel Code, personnel rules, and/or collective bargaining agreement governing the layoff;
 - iii) if the layoff decisions were made by seniority date, an explanation of any exceptions and the reasons they were made;
 - iv) any alternatives to laying off the affected employees that were available to and considered by the agency; and
 - v) a discussion of any significant impact the layoff would have on a specific affirmative action group.
 - B) If the report is being submitted less than 30 days prior to the effective date of the layoff, the narrative must set forth the emergency situation necessitating the layoff.
- 4) The agency's layoff plan shall identify, by region, job title, and affirmative action groups, the employees to be affected by the layoff.
- 5) A summary workforce analysis (Form CMS-DHR9) for the region where the layoff will occur.

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

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Section 2520.APPENDIX D Illinois Counties by Region**REGION 1**

Cook
DuPage
Grundy
Kane
Kendall
Lake
McHenry
Will

REGION 2

Boone
Carroll
DeKalb
Jo Daviess
Lee
Ogle
Stephenson
Whiteside
Winnebago

REGION 3

Bureau
Henderson
Henry
Knox
Mercer
Rock Island
Stark
Warren

REGION 4

Fulton
Mason
Peoria
Tazewell
Woodford

REGION 5

Kankakee
LaSalle
Livingston
Marshall
McLean
Putnam

REGION 6

Champaign
Douglas
Ford
Iroquois
Vermilion

REGION 7

Christian
DeWitt
Logan
Macon
Macoupin
Menard
Montgomery
Piatt
Sangamon

REGION 8

Adams
Brown
Calhoun
Cass
Greene
Hancock
Jersey
McDonough
Morgan
Pike
Schuyler
Scott

REGION 9

Bond
Clinton
Madison
Monroe
St. Clair
Washington

REGION 10

Clark
Clay
Coles
Crawford
Cumberland
Edgar
Effingham
Fayette
Jasper
Lawrence
Marion
Moultrie

REGION 11

Alexander
Edwards
Franklin
Gallatin
Hamilton
Hardin
Jackson
Jefferson
Johnson
Massac
Perry
Pope

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Richland
Shelby

Pulaski
Randolph
Saline
Union
Wabash
Wayne
White
Williamson

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

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Housing Discrimination
- 2) Code Citation: 71 Ill. Adm. Code 2300
- 3) Section Number: 2300.40 Proposed Action: New Section
- 4) Statutory Authority: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 7B-102(B) of the Illinois Human Rights Act [775 ILCS 5/7B-102(B)], a respondent’s failure to file a verified response within 30 days from receipt of a notice of a charge without good cause shall result in the issuance of a notice of default. Pursuant to Public Act 94-326 (effective July 26, 2005), this proposed amendment defines good cause for failing to file a timely verified response. This proposed amendment also enacts a procedure for a complainant to contest, and the Department to review, a respondent’s untimely filed verified response.
- 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>Sections Number:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation:</u>
2300.10	Amendment	29 Ill. Reg. 8291
2300.30	Amendment	29 Ill. Reg. 8291
2300.70	Amendment	29 Ill. Reg. 8291
- 10) Statement of Statewide Policy Objectives: The proposed amendment does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

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Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago IL 60601

(312) 814-1906 or (312) 263-1579 (TTY)

- 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: July 2005

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

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TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER VII: DEPARTMENT OF HUMAN RIGHTSPART 2300
HOUSING DISCRIMINATION

Section	
2300.10	Definitions
2300.30	Exemptions
2300.35	Housing for Elderly Persons
2300.40	Verified Response to Charge
2300.50	Dismissal for Refusal to Accept Settlement Offer
2300.70	Procedures
2300.80	Rental of Rooms in a Private Home
2300.90	Real Estate Transactions

AUTHORITY: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A), of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].

SOURCE: Adopted at 16 Ill. Reg. 8178, effective May 19, 1992; amended at 25 Ill. Reg. 2420, effective January 23, 2001; amended at 25 Ill. Reg. 9619, effective July 17, 2001; amended at 29 Ill. Reg. _____, effective _____.

Section 2300.40 Verified Response to Charge

- a) Pursuant to Section 7B-102(B) of the Act, within 30 days after receipt of the notice of the charge, respondent shall file a verified response to the allegations in the charge. Respondent shall serve a copy of the verified response on complainant or complainant's representative and shall show proof to the Department that the copy was served on complainant or complainant's representative.
- b) Where respondent's verified response is not timely filed and/or served on complainant or complainant's representative, complainant may raise that issue before the Department. The raising of an issue of an untimely filed and/or served verified response with the Department does not relieve complainant of complainant's duty to comply with the Department's investigation.
- c) Pursuant to Section 7B-102(B) of the Act, good cause for untimely filing a verified response may include, but shall not be limited to:

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- 1) Death or sudden, serious illness of respondent or respondent's representative; or
 - 2) Death or sudden, serious illness of an immediate family member of respondent or respondent's representative; or
 - 3) Respondent filed and served a timely verified response, but the Department later determined that respondent's verified response was defective; or
 - 4) Respondent acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the verified response process, as supported by affidavit or other evidence; or
 - 5) Respondent's failure to timely file a verified response was due to circumstances beyond respondent's control, as supported by affidavit or other evidence.
- d) Whether good cause exists is in the sole discretion of the Department.
- e) Where respondent is responding to a notice to show cause for failing to timely file the verified response and/or timely serve a copy on complainant or complainant's representative, respondent shall include the verified response with the response to the notice to show cause and show proof that respondent has served the verified response on complainant or complainant's representative.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pharmacy Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1330.5	Amendment
1330.10	Amendment
1330.20	Amendment
1330.40	Amendment
1330.50	Amendment
1330.55	Amendment
1330.60	Amendment
1330.75	Amendment
1330.76	Amendment
1330.90	Amendment
1330.91	Amendment
1330.92	Amendment
1330.93	Amendment
1330.94	Amendment
1330.95	Amendment
1330.96	Amendment
1330.98	Amendment
1330.99	Amendment
1330.100	Amendment
1330.110	Amendment
1330.120	Amendment
1330.130	Amendment
1330.140	Amendment
- 4) Statutory Authority: Pharmacy Practice Act of 1987 [225 ILCS 85]
- 5) Effective Date of Amendments: August 25, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 9) Date Notice of Proposal Published in Illinois Register: April 29, 2005; 29 Ill. Reg. 5823
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Section 1330.91 was amended to clarify the responsibilities of pharmacies that do not stock contraceptives. Additional nonsubstantive technical changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? Yes, at 29 Ill. Reg. 5586, effective April 1, 2005.
- 14) Are there any amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
1330.67	New Section	29 Ill. Reg. 12332; August 12, 2005

- 15) Summary and Purpose of Amendments: The amendments address the critical public health care issue of access to prescription contraceptives. The rulemaking clarifies that a pharmacy has the duty to dispense contraceptives without delay. Where the contraceptive or an alternative suitable to the prescriber is not in stock, the pharmacy must follow its standard procedure for stocking contraceptives, transfer the prescription to another pharmacy or return the prescription to the patient, as the patient directs.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Department of Financial and Professional Regulation
 Attention: Barb Smith
 320 West Washington, 3rd Floor
 Springfield, Illinois 62786

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330

PHARMACY PRACTICE ACT OF 1987

Section	
1330.5	Definitions
1330.10	Application for Certificate of Registration as a Pharmacy Technician
1330.20	Approval of Pharmacy Programs
1330.30	Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
1330.40	Application for Examination
1330.50	Examination for Licensure
1330.55	Application for Licensure on the Basis of Examination
1330.60	Endorsement
1330.65	Patient Counseling
1330.70	Definitions (Renumbered)
1330.75	Security Requirements
1330.76	Reporting Theft or Loss of Controlled Substances
1330.80	Violations
1330.90	Divisions of Pharmacy Licenses
1330.91	Division I Pharmacies
1330.92	Division II Pharmacies
1330.93	Division III Pharmacies
1330.94	Division IV Pharmacies
1330.95	Division V Pharmacies
1330.96	Nonresident Pharmacies
1330.98	Automated Dispensing and Storage Systems
1330.99	Parenteral Product Standards
1330.100	Application for a Pharmacy License
1330.110	Granting Variances
1330.120	Renewals
1330.130	Restoration
1330.140	Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986; transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective December 1, 1998; amended at 23 Ill. Reg. 14131, effective November 18, 1999; amended at 24 Ill. Reg. 8548, effective June 9, 2000; amended at 26 Ill. Reg. 18338, effective December 13, 2002; amended at 27 Ill. Reg. 19389, effective December 11, 2003; emergency amendment at 29 Ill. Reg. 5586, effective April 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13639, effective August 25, 2005.

Section 1330.5 Definitions

"Act" means the Pharmacy Practice Act of 1987 [225 ILCS 85].

"Authentication of Product History" means, but is not limited to, identifying the purchasing source, the ultimate disposition and any intermediate handling of any component of a radiopharmaceutical, diagnostic agent or device.

"Board" means the State Board of Pharmacy.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Dispense" means to interpret, verify computer entry of, select the prescribed product for, prepare and/or deliver a prescription medication to an ultimate consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding, packaging, and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Division I pharmacy" is any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Division II pharmacy" is any pharmacy whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] and that is not located in the facility it serves.

"Division III pharmacy" is any pharmacy that is located in a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act or a facility that is operated by the Department of Human Services or the Department of Corrections, and that provides pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

"Division IV pharmacy" is any pharmacy that provides and/or offers for sale radiopharmaceuticals.

"Division V pharmacy" is any pharmacy that holds a license in Division II or Division III that also provides pharmacy services to the general public, or is any pharmacy that is located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such institution or facility (e.g., a university infirmary).

"Medication Order" means an order that is issued by a physician for a resident or patient of a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act.

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"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.94(i).

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of that state.

"Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. The offer to counsel shall be made by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or the student pharmacist shall be made in a face-to-face communication with the patient or the patient's representative, unless, in the professional judgment of the pharmacist, a face-to-face communication is deemed inappropriate or unnecessary. In that instance, the offer to counsel or patient counseling may be made in a written communication, by telephone or in a manner determined by the pharmacist to be appropriate.

"Patient profiles" or "patient drug therapy record" means the obtaining, recording and maintenance of patient prescription and personal information.

"Pharmacist" means a currently licensed pharmacist or registered assistant pharmacist.

"Prospective drug review" or "drug utilization evaluation" means the screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with

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nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Pharmacy Practice Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radiopharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 USC 301 et seq. (1988)) and regulations promulgated [under that Act](#)~~thereunder~~.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological, and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois [Emergency Management Agency](#)~~Department of Nuclear Safety~~; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a Division IV Pharmacy.

"Registrant" means a licensed pharmacist, registered assistant pharmacist, or a registered pharmacy technician.

"Student Pharmacist" is a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate consumer" means the person for whom a drug is intended.

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"Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable individual biometric or electronic identification process as approved by the ~~Division~~[Department](#).

"Unprofessional conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is willful, wanton, repeated, or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Willful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;

Willful preparation or signing false statements in order to induce payment for pharmacy services by the Department of ~~Healthcare and Family Services~~[Public Aid](#), or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating practice Standards of the American Pharmaceutical Association/American Association of Colleges of Pharmacy Standards of Practice for the Profession of Pharmacy, published March 1979, and the Principle of Practice for Pharmaceutical Care, 1996, which include no later editions or amendments, and which are herein incorporated by reference, in determining what is unprofessional conduct; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

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(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.10 Application for Certificate of Registration as a Pharmacy Technician

- a) An applicant for a certificate of registration as a pharmacy technician shall file an application on forms supplied by the Division ~~Department of Professional Regulation (Department)~~ together with:
- 1) A copy of high school diploma or its equivalent, or proof of current enrollment in a high school program; and
 - 2) The fee required by the Pharmacy Practice Act of 1987 (the Act) [255 ILCS 85] pursuant to Section 27(A)(1).
- b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application to the Division ~~Department~~ in accordance with subsection (a)-~~above~~.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.20 Approval of Pharmacy Programs

- a) The Division ~~Department~~ shall, upon the recommendation of the State Board of Pharmacy (the Board), approve a pharmacy program in a school or college or department of pharmacy of a university or other institution as reputable and in good standing if it meets the following minimum criteria:
- 1) Is legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located to confer a first professional degree in pharmacy;
 - 2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. Their facility must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions in disciplines reflective of the curricular requirements. (All of the pharmacist members of the clinical faculty and a majority of the faculty in the pharmaceutical sciences should be licensed pharmacists in that jurisdiction. The clinical faculty should be active practitioners.);

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- 3) Has a curricular offering of post-secondary instruction totalling at least 5 academic years including any preprofessional education requirements, and requiring a minimum of the following subject areas:
- A) General Education (a minimum of 30 semester hours or its equivalent in courses in the humanities and behavioral and social sciences);
 - B) Preclinical Sciences (courses in the physical and biological sciences and mathematics which are prerequisites to professional studies and training. Course work should include general chemistry, organic chemistry, general biology, microbiology and mathematics);
 - C) Professional Studies and Training (in the following areas):
 - i) Biomedical sciences which include anatomy, physiology, immunology, biological chemistry, pathology and biostatistics;
 - ii) Pharmaceutical sciences, which include pharmaceutical or medicinal chemistry, pharmaceuticals or dosage form design and evaluation, pharmacokinetics, synthetic and natural drug product chemistry, pharmacology, pharmaceutical administration and the social and behavioral sciences in pharmacy;
 - iii) Clinical sciences and practice, which include clinically applied courses based on the biomedical and pharmaceutical sciences such as didactic courses in clinical foundations, disease processes and diagnoses, clinical pharmacology and therapeutics and drug information research and literature retrieval; and
 - iv) Externship and clerkship: a minimum of 400 direct contact hours in clerkship and externship experience. These experiences should minimally include supervised training in inpatient environments providing for interdisciplinary experiences with other health professionals and including

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distributive aspects of pharmacy practice;

- 4) Has essential facilities including, but not limited to, administrative and faculty offices, teaching and research laboratories, lecture rooms, conference rooms, student activities areas and service and other programmatic support areas;
- 5) Has a comprehensive library which contains a contemporary collection of periodicals, texts and reference books relevant to the biomedical, pharmaceutical and clinical aspects of health care and its systems of delivery;
- 6) Has clinical facilities adequate in number and quality and with appropriate supervision to deliver the clinical clerkships and externships of the curriculum. Such facilities shall be available in inpatient and outpatient environments, including patient care areas of health care institutions, hospital pharmacies community pharmacies; and
- 7) Maintains permanent retrievable and auditable student records that summarize the credentials for admission, attendance, grades and other records of performance for each student enrolled in the program.

- b) In determining whether a school or college should be approved, the Division ~~Department~~ shall take into consideration, but not be bound by, accreditation standards established by the American Council on Pharmaceutical Education.
- c) An applicant from a pharmacy program that has not been evaluated shall cause to be forwarded to the Division ~~Department~~ documentation concerning the criteria in this Section. If the documentation is insufficient to evaluate the program, the applicant will be required to provide such additional information as necessary. Once the Division ~~Department~~ has received the documentation or after 6 months have elapsed from the date of application, whichever is first, the Board will evaluate the program based on all documentation received from the school and any additional information the Division ~~Department~~ has received which will enable the Board to evaluate the program based on the criteria specified in this Section. In the event the program is not approved as reputable and in good standing by the Division ~~Department~~, applicants from the program must successfully complete the preliminary diagnostic examination and all such other requirements as set forth in the Act and this Part.

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- d) The Director shall, upon written recommendation submitted by the Board, withdraw, suspend or place on probation the approval of a pharmacy program when the Director determines, based upon the report of the Board, the quality of the program has been materially affected. In determining the existence of a material effect, the Board and the Director shall consider the existence of any of the following causes:
- 1) Gross or repeated violations of any provision of the Act;
 - 2) Gross or repeated violations of any provision of this Part;
 - 3) Fraud or dishonesty in furnishing documentation for evaluation of the pharmacy program; or
 - 4) Failure to continue to meet the established criteria for an approved pharmacy program as set out in this Section.
- e) When approval of a pharmacy program is being reconsidered by the ~~Division~~Department, written notice shall be given at least 15 days prior to any recommendation by the Board, and the officials in charge may either submit written comments or request an interview before the Board.
- f) The ~~Division~~Department, upon the recommendation of the Board, has determined that all pharmacy programs accredited by the American Council on Pharmaceutical Education as of July 1, 1998, meet the minimum criteria set forth in subsection (a) ~~above~~ and are, therefore, approved. The Board shall review the list of accredited programs published each year on July 1 by the American Council on Pharmaceutical Education in order to determine whether the programs continue to meet the minimum criteria.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.40 Application for Examination

- a) An applicant for examination shall apply on forms approved by the ~~Division~~Department, at least 30 days prior to an examination date. The application shall include:
- 1) One of the following~~Either~~:

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- A) Certification of graduation from a first professional degree program in pharmacy totalling at least 5 academic years. ~~The Such~~ program must be approved by the ~~Division Department~~ upon recommendation of the Board of Pharmacy pursuant to the provisions of Section 1330.20; or
 - B) Certification, in the case of an applicant applying in the last half-year of the curriculum from the dean of an approved pharmacy program indicating the applicant is expected to graduate. It is the responsibility of the individual school to notify the ~~Division Department~~ of all the students who do not graduate; or
 - C) Proof of compliance with Section 1330.30 of this Part if the applicant is a graduate of a program not approved pursuant to the provisions of Section 1330.20 of this Part.
- 2) The fee as required by Section 27(B)(2) of the Act.
- b) An applicant whose application is complete shall be scheduled for the next available examination.
 - c) If the applicant has successfully completed the Theoretical and Applied Pharmaceutical Sciences examination and/or the Federal Law examination recognized by the ~~Division Department~~ in another jurisdiction, the applicant may have examination scores submitted to the ~~Division Department~~ from the reporting entity.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.50 Examination for Licensure

- a) The examination for licensure as a registered pharmacist shall be divided into two portions:
 - 1) Theoretical and Applied Pharmaceutical Sciences portion which shall test the following subjects:
 - A) Medicinal Chemistry;
 - B) Pharmacology;

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- C) Pharmacy;
 - D) Pharmaceutical Calculations;
 - E) Interpreting and Dispensing Prescription Orders;
 - F) Compounding Prescription Orders; and
 - G) Monitoring Drug Therapy.
- 2) Pharmaceutical Jurisprudence portion which consists of two parts and shall test:
- A) Illinois Law related to pharmacy practice; and
 - B) Federal Law related to pharmacy practice.
- b) An applicant must score a minimum of 75 on the Theoretical and Applied Pharmaceutical Sciences portion and a minimum of 75 on the combined Pharmaceutical Jurisprudence portion in order to successfully pass the examination for licensure. An applicant who scores 75 or greater in either the Theoretical and Applied Pharmaceutical Sciences portion or on either of the combined Pharmaceutical Jurisprudence Portions will not ~~thereafter~~ be required to retake that portion of the examination. The reporting of scores to the candidates shall include the score obtained on the Theoretical and Applied Pharmaceutical Sciences, the score obtained on the Federal Law portion, a pass or fail score on the Illinois Law portion and the combined score consisting of the Federal Law portion and the State Law portion.
- c) Any applicant who fails any portion or all portions of the registered pharmacist examination three times in any jurisdiction will be required to furnish proof of remedial education in an approved program on the ~~subject~~~~subject(s)~~ of the portion failed in the third examination. Proof of additional remedial education in an approved program shall also be furnished each time the applicant fails any portion of the examination three times after undergoing remedial education (i.e., after the sixth exam, ninth exam, etc.).
- d) Pursuant to Section 7 of the Act, an applicant may work as a registered pharmacist for up to 60 days prior to the issuance of a certificate of registration

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upon receipt of a notice from the ~~Division Department~~ that the examination was successfully completed.

- e) For the purposes of this Section remedial training shall be defined as:
- 1) A course of study of at least 30 classroom hours in the ~~subject~~~~subject(s)~~ of the ~~portions~~~~portions(s)~~ failed three times in an approved pharmacy college; or
 - 2) A tutorial or preceptorship with a faculty member in an approved pharmacy college or another pharmacist as a preceptor. ~~The Such~~ course of instruction must be deemed by the Board to be substantially equivalent to subsection (e)(1) ~~above~~ and approved by the ~~Division Department~~. Any remedial training must be approved by the Board and the ~~Division Department~~ prior to commencement.
- f) The provisions of this Section shall apply to all applicants upon adoption without regard to where the applicant is in the application process.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.55 Application for Licensure on the Basis of Examination

- a) An applicant for licensure on the basis of examination shall submit to the ~~Division Department~~ a properly completed application on forms provided by the ~~Division Department~~ along with the following:
- 1) The fee required by Section 27(B)(1) of the Act;
 - 2) Certification of graduation from an approved program of pharmacy as set forth in Section 1330.20; and
 - 3) Proof of successful completion of the examination approved by the ~~Division Department~~ specified in Section 1330.50 of this Part.
- b) Upon receipt of the items required in subsection (a) of this Section, and upon the verification by the ~~Division Department~~ that the candidate meets all of the requirements for licensure as a Registered Pharmacist, the ~~Division Department~~ shall issue a license to practice pharmacy or notify the applicant of the reason for denial.

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(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.60 Endorsement

- a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country shall file an application with the ~~Division~~Department, together with:
- 1) Certification of graduation from a 5 year pharmacy program approved pursuant to Section 6 of the Act and Section 1330.20 of this Part;
 - 2) For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship; or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;
 - 3) A certification by the state or territory of original licensure, stating:
 - A) The time during which the applicant was licensed in that state;
 - B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;
 - C) A brief description of the examination and the applicant's grades; and
 - 4) Proof of successful passage of the Illinois multi-state jurisprudence examination; and
 - 5) The fee as required by Section 25 of the Act.
- b) The ~~Division~~Department and the Board shall examine each application to determine whether the requirements, at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.
- c) If the requirements are found to be substantially equivalent and the applicant graduated from an approved college of pharmacy and meets all other requirements of Section 6 of the Act, the ~~Division~~Department will notify the

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applicant of approval and/or denial and the reasons [for the approval or denial](#) therefor within 30 days after receipt of the application and supporting documentation.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.75 Security Requirements

- a) Whenever the pharmacy (prescription area) is not occupied by a registrant, the pharmacy (prescription area) must be secured and inaccessible to non-licensed persons (employees and public). This may be accomplished by measures such as walling off, locking doors, electronic security equipment, as approved by the [Division](#)~~Department~~.
- b) Schedule II drugs shall be secured in rooms, vaults, safes, cabinets, etc., under lock, whether by key, combination or electronically.
- c) Schedule II drugs shall not be distributed among regular stock.
- d) All secured Schedule II drugs shall be accessible only when a pharmacist is physically present.
- e) A pharmacist shall be physically present whenever Schedule II drugs are not secured and are to be dispensed.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.76 Reporting Theft or Loss of Controlled Substances

In every instance that a pharmacist-in-charge is required by federal law (21 CFR 1301.76) to file with the U.S. Drug Enforcement Agency a Report of Theft or Loss of Controlled Substances, Form 106, a copy shall be sent to the [Division](#)~~Department~~. Failure to do so may result in discipline of the pharmacist.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.90 Divisions of Pharmacy Licenses

- a) Each individual, partnership, corporation or any other applicant for a pharmacy license shall indicate, on forms supplied by the [Division](#)~~Department~~, the division

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~~designations~~ designation(s) for which a license is being requested.

- b) The Board shall have the authority to review and make recommendations to the Director regarding the appropriate division designation of an applicant.
- c) A pharmacy, whose scope of services requires it to be placed in more than one division designation, shall be issued one pharmacy license for each division designated and shall be charged the appropriate fee, as set forth in Section 27(C) of the Act, for each division license issued.
- d) A pharmacy shall designate a different pharmacist-in-charge for each division ~~Division~~ as established by Section 15 of the Act and shall comply with the designated division ~~Division~~ requirements of this Part.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.91 Division I Pharmacies

- a) Retail pharmacies which engage in general community pharmacy practice and are open to, or offer pharmacy service to, the general public shall, in addition to any other requirements of the Act and this Part, comply with Section 1330.91. A retail pharmacy which, in addition to offering pharmacy services to the general public, provides pharmacy services to an institution or facility listed in Sections 1330.92(a) need not register as a Division II pharmacy if the sales do not exceed 49% of total sales, but the pharmacy shall comply with requirements of Sections 1330.92(b), (c) and (d).
- b) Recordkeeping Requirements for Filling Prescriptions
 - 1) Every prescription filled or refilled shall contain the name, initials or other unique identifier of the person authorized to practice pharmacy under the provisions of the Pharmacy Practice Act who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the person authorized to practice pharmacy in the State of Illinois who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 2) Whenever a prescription is filled or refilled, by a registered pharmacy

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technician under the supervision of a pharmacist, the prescription shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the initials of the pharmacy technician and pharmacist.

- 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another appropriate, uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.
 - B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription.
- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the uniformly maintained record and record the date the copy is issued, to whom issued and his/her name, initials or unique identifier. Copies of prescriptions shall be marked "For Information Purposes Only" and require a new

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prescription from the prescriber.

- 6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system ~~that~~which meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and which contain no further amendments or editions, and shall include the capability to:
- A) Retrieve the original prescription order information for those prescription orders ~~which are~~ currently authorized for refilling;
 - B) Retrieve the current prescription orders, ~~including~~which ~~shall~~, at a minimum, ~~include~~ name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill and the total number of refills dispensed to date;
 - C) Supply documentation of refill information entered by the pharmacist using the system by way of a hard copy printout of each day's refill data ~~that~~which has been verified for correctness. This printout must include for each prescription filled at least the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
 - v) The patient's name;
 - vi) The prescriber's name; and
 - vii) The prescription number for the prescription.

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In lieu of the printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

- 7) All refill data shall be maintained by the pharmacy on the premises for 5 years, in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the [Division, Department](#) upon request, within 48 hours.

c) Transfer of Prescription Information

- 1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:
- A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of such copy and the name of the transferor pharmacist issuing the transferred prescription order; and
 - B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:
 - i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - ii) All information constituting a prescription order including the following: name of the drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and
 - C) The transferee pharmacist informs the patient that the original prescription has been cancelled at the pharmacy from which it has been transferred.

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- 2) A prescription for Schedule III, IV and V drugs may be transferred only from the original pharmacy and only one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
 - 3) Computerized systems must satisfy all information requirements of this subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of this subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.
- d) Staffing of the Pharmacy
- 1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be compliance with the following:
 - A) The schedule during which the practice of pharmacy is carried on in the pharmacy shall be conspicuously displayed.
 - B) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters:
PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS
FILLING OF PRESCRIPTIONS IN THE ABSENCE OF A
PHARMACIST.
 - C) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.
 - 2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy

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is considered providing Pharmaceutical Services when a pharmacist is physically present in the establishment and available for consultation.

- e) Pharmacist-in-Charge
- 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist shall be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of ~~the~~ pharmacist-in-charge shall include:
 - A) Supervision of all activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed as set forth in Section 1330.75; and
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
 - 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the ~~Division~~Department shall be so notified in writing by the departing pharmacist-in-charge.
 - 4) In addition to notifying the ~~Division~~Department within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.

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- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Department of [Financial and Professional Regulation-Division of Professional Regulation](#), at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5)-~~above~~ shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board.
- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the ~~Division~~[Department](#), because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Explain ~~thesueh~~ relevance or completeness during an oral interview; or
 - C) Appear for an oral interview before the Board when the information available to the Board is insufficient to evaluate compliance with this Section.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:
 - 1) Medical devices ~~that~~[which](#) can be properly sanitized prior to reuse, resale or rereuse; and
 - 2) Medications and medical devices that are dispensed and stored under

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conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia (U.S.P)/National Formulary or by the United States Pharmacopoeial Convention, Inc.

- g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.
- i) ~~Pharmacies shall develop and implement~~~~The development and implementation of~~ a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition.
- j) Duty of Division I Pharmacy to Dispense Contraceptives
 - 1) Upon receipt of a valid, lawful prescription for a contraceptive, a pharmacy must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient's agent without delay, consistent with the normal timeframe for filling any other prescription. If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must obtain the contraceptive under the pharmacy's standard procedures for ordering contraceptive drugs not in stock, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. However, if the patient prefers, the prescription must be transferred to a local pharmacy of the patient's choice under the pharmacy's standard procedures for transferring prescriptions for contraceptive drugs, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. Under any circumstances an unfilled prescription for contraceptive drugs must be returned to the patient if the patient so directs.
 - 2) For the purposes of this subsection (j), the term "contraceptive" shall refer to all FDA-approved drugs or devices that prevent pregnancy.
 - 3) Nothing in this subsection (j) shall interfere with a pharmacist's screening for potential drug therapy problems due to therapeutic duplication,

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[drug-disease contraindications, drug-drug interactions \(including serious interactions with nonprescription or over-the-counter drugs\), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to 225 ILCS 85/3\(q\).](#)

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.92 Division II Pharmacies

- a) Pharmacies ~~that~~~~which~~ are not located in the facilities they serve and whose primary service is to provide services to patients or residents of facilities licensed under the Nursing Home Care ~~Reform~~ Act ~~of 1979~~ or the Hospital Licensing Act, or the University of Illinois Hospital Act shall, in addition to any other requirements of the Act and this Part, comply with this Section.
- b) Recordkeeping Requirements for Filling Prescriptions or Orders
 - 1) Every prescription or order dispensed shall be documented with the handwritten names, initials or other unique identifier of the pharmacist (and technician if one is used) authorized to practice pharmacy under the provisions of the Act who dispenses the prescription or order. For purposes of the Act, an authorized person is:
 - A) A pharmacist licensed in the State of Illinois, or
 - B) A registered pharmacy technician or registered student pharmacist, under the supervision of a pharmacist.
 - 2) Each pharmacy must maintain a recordkeeping system for 5 years, which contains the information in subsection (b)(3)~~-below~~. This information shall be readily retrievable and in a format ~~that~~~~which~~ provides enforcement agents a concise, accurate and comprehensive method of monitoring drug distribution via an audit trail. This system may require two or more documents ~~that~~~~which~~, when read together, will provide all the information required by federal (e.g., the regulations of the Drug Enforcement Administration, 21 CFR 1300 et seq. (1998)) and State law (e.g., the Pharmacy Practice Act of 1987 and the Illinois Controlled Substances Act).

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- 3) In addition to the ~~above~~ recordkeeping requirements of subsection (b)(2), a uniformly maintained, readily retrievable hard copy record or back-up documentation of each prescription or order dispensed shall be maintained by the pharmacy for 5 years and shall include:
 - A) Name of resident;
 - B) Date of order;
 - C) Name, strength and dosage form of drug, or description of the medical device ordered;
 - D) Quantity dispensed (a separate record should be maintained when the quantity billed differs from the quantity dispensed, e.g., unit dose transfer systems);
 - E) Directions for use;
 - F) Quantity billed;
 - G) Prescriber's name;
 - H) Prescriber's signature and/or DEA number where required for controlled substances; and
 - I) The drug name and identification code or the manufacturer in case of a generically ordered medication or a generic interchange.
- 4) The label affixed to the drug container must indicate the initials or other unique identifier of the pharmacist who approves the dispensing of the medication order. However, if the pharmacy is utilizing a drug distribution system which re-issues the same label, a separate record must be maintained which identifies the pharmacist approving each dispensing of the prescription or medication order.
- 5) No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription or order by the prescriber.
- 6) Subject to Section 18 of the Act, any information ~~which is~~ required to be

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kept pursuant to this Section may be recorded and stored in a:

- A) computerized pharmaceutical information system ~~that~~which meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and ~~that~~which contain no further amendments or editions, and shall include the capability to:
 - i) Retrieve the original medication order information for those medication orders ~~that~~which are currently authorized;
 - ii) Retrieve the current history of medication orders ~~that~~which shall, at a minimum, include the name of drug, the date of filling, the quantity dispensed, the name and identification code of manufacturer in the case of a generically written prescription or a generic interchange, for each filling, and the total number of refills when read in conjunction with any off-line hard copy of the history of medication orders dispensed to date; and
 - iii) Supply documentation of the correctness of filling information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's filling data which has been verified, dated and signed by the dispensing pharmacist; or
- B) bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.
- c) In the event the long term care facility changes pharmacy provider services, their new provider must obtain the orders from the long term care facility and verify the authenticity and accuracy of the orders with the prescriber.
- d) Staffing of the Pharmacy

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- 1) When the pharmacy is closed, the public and any employees not registered under the Act are to be prohibited access to the filling and dispensing area;
 - 2) The pharmacy must provide pharmaceutical services as defined in Section 3 of the Act a minimum of 40 hours per week. A pharmacy is considered to be providing pharmaceutical services when a pharmacist is on call and available for consultation.
- e) Pharmacist-in-Charge
- 1) No pharmacy shall be granted a certification of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of ~~the~~ pharmacist-in-charge shall include:
 - A) Supervision of all activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed, as set forth in Section 1330.75; and
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
 - 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the ~~Division Department~~ shall be ~~so~~-notified in writing by the departing pharmacist-in-charge.
 - 4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled

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Substance Act, by actual physical count; and

- B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the ~~Division~~Department, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) ~~above~~ shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based upon the recommendation of the Board.
- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the ~~Division~~Department, because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
- A) Provide such information as may be necessary; and/or
- B) Appear for an interview before the Board to explain ~~the~~such relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons, or medical devices except for:
- 1) Medical devices ~~that~~which can be properly sanitized prior to reuse, resale or rereuse; and
- 2) Medications and medical devices that are dispensed and stored under

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conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeial ([USP U.S.P.](#))/National Formulary, or by the United States Pharmacopoeial Convention, Inc.

g) Labeling Requirements

1) Medications ~~for~~ Future Use

A) Parenteral solutions to which a drug or diluent has been added or ~~that~~[which](#) are not in their original manufacturer's packaging, shall contain the following information on the outer label:

- i) Name, concentration and volume of the base parenteral solution;
- ii) Name and strength of drugs added;
- iii) Expiration date and date of the admixture. Expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be not later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal (e.g., the federal Drug Administration Act) or [USP U.S.P.](#) requirements, whichever is earlier; and
- iv) Reference code to identify source and lot number of ~~drugs~~[drug\(s\)](#) added.

B) Non-Parenterals repackaged for future use, shall be identified with the following information:

- i) Trade and/or generic name;
- ii) Strength (if applicable);
- iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date, shall be not later than the expiration date on the

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manufacturer's container, one year from the date the drug is repackaged, or current federal or [USPU.S.P.](#) requirements, whichever is earlier; and

iv) Reference code to identify source and lot number.

2) Medications prepared for Immediate Use

A) All medications prepared by the pharmacy for immediate dispensing to a specific resident or patient in the facility shall be dispensed in a container identified with:

i) Name of the resident;

ii) Resident's room and bed number;

iii) Dispensing date;

iv) Name, strength and dosage form of drug, or description of the medical device ordered;

v) Quantity dispensed;

vi) Directions for use;

vii) Prescriber's name; and

viii) Expiration date if less than 60 days from date of dispensing.

B) Pharmacies dispensing medications to a specific resident or patient in the facility via unit dose shall label each order with the following information:

i) Name of the resident;

ii) Resident's room and bed number;

iii) Date of order;

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- iv) Name, strength and dosage form of drug, or description of the medical device ordered;
 - v) Directions for use; and
 - vi) Prescriber's name.
- h) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- i) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.93 Division III Pharmacies

- a) Pharmacies ~~which are~~ located in facilities licensed under the Nursing Home Care ~~Reform Act of 1979~~, the Hospital Licensing Act, or the University of Illinois Hospital Act, or are operated by the Department of Human Services or the Department of Corrections, and ~~that~~~~which~~ provide pharmacy services to residents, patients, employees, prescribers and students of these facilities, shall, in addition to other requirements of the Act and this Part, comply with this Section.
- b) Recordkeeping Requirements
- 1) Every prescription or drug order filled or refilled shall contain the name, initials or other unique identifier of the pharmacist (and technician if one is used) who fills or refills the prescription or drug order, or the name, initials or other unique identifier may be recorded on another appropriate, uniformly maintained and readily retrievable record ~~that~~~~which~~ indicates, at least, the following information:
 - A) The name and dosage form of the drug;
 - B) The date of filling or refilling; and
 - C) The quantity dispensed.
 - 2) The label affixed to the drug container of any prescription to a non-

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inpatient of the facility or institution must indicate the initials or other unique identifier of the pharmacist (and technician if one is used) who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.

- 3) The pharmacist-in-charge shall maintain or have access to the following records for at least 5 years or as otherwise required by law:
 - A) Records of medication orders and medication administration to patients;
 - B) Procurement records for controlled substances;
 - C) Records of packaging, bulk compounding or manufacturing; and
 - D) Records of actions taken pursuant to drug recalls.
- c) Labeling Requirements
 - 1) All medication repackaged by the pharmacy for future use inside the institution or facility and not intended for immediate dispensing to a specific patient shall be identified with the following information:
 - A) Single dose or multi-dose drugs, except parenteral solutions to which a drug has been added, shall be labeled with:
 - i) Trade and/or generic name;
 - ii) Strength (if applicable);
 - iii) Expiration date; and
 - iv) Reference code to identify source and lot number.
 - B) Parenteral solutions to which drugs have been added shall contain on the outer label:
 - i) Name, concentration and volume of the base parenteral solution;

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- ii) Name and strength of drugs added;
 - iii) Expiration date and time of the admixture; and
 - iv) Reference code to identify source and lot number of drugs added.
- 2) All medication prepared by the pharmacy for immediate dispensing to a specific patient or resident in the institution or facility shall be identified with the following information:
- A) Single dose or multi-dose drugs, except parenteral solutions to which a drug has been added, shall be identified with:
 - i) Trade and/or generic name; and
 - ii) Strength (if applicable).
 - B) Parenteral solutions to which drugs have been added shall be identified with:
 - i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs added; and
 - iii) Expiration date and time of the admixture.
 - C) All medication dispensed to a specific patient in the institution shall be dispensed in a container identified with the name of the patient and the patient's location. Those institutions or facilities utilizing unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 3) Labels on all medications dispensed by the pharmacy for immediate dispensing to a discharge patient, emergency room patient and/or employee shall contain the following:

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- A) The name and dosage form of the drug;
 - B) The date filled;
 - C) The quantity dispensed; and
 - D) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling.
- 4) Investigational New Drugs, authorized by the United States Food and Drug Administration, shall be dispensed pursuant to a valid prescription order of the principal physician-investigator or his authorized clinician. All investigational drugs shall be stored in and dispensed from the pharmacy and shall be identified with the following information:
- A) Name of drug and strength (if applicable);
 - B) Expiration date;
 - C) Reference code to identify source and lot number;
 - D) A label indicating "For Investigational Use Only"; and
 - E) Name and location of the patient. Those institutions or facilities utilizing unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the face of the original prescription and record the date the copy is issued, to whom issued, and his signature on the face of the original prescription. Copies of prescriptions shall be marked "For Information Purposes Only" and require prescriber authorization to fill.
- d) Staffing of the Pharmacy
- 1) No pharmacy shall be granted a certificate of licensure without a

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pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of ~~thesueh~~ pharmacist-in-charge shall include:

- A) Supervision of all the activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage, dispensing and safekeeping of pharmaceuticals in all areas of the institution or facility, including maintenance of security provisions to be used when the pharmacy is closed. The following security provisions shall be utilized:
 - i) The pharmacy shall be staffed at all times by a registered pharmacist during open hours; and
 - ii) There shall be no public access to the pharmacy, except as provided in Section 1330.93(e)(1);
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs;
 - D) The development and implementation of a procedure to be utilized in the event of a drug recall ~~thatwhich~~ can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition;
 - E) Establishment of specifications for the procurement of all drugs ~~thatwhich~~ will be dispensed by the pharmacy; and
 - F) Establishment and supervision of a method of documenting an oral prescription from a licensed physician to a pharmacist and for transmission of that information to the appropriate members of the nursing staff of the institution or facility.
- 2) The operations of the pharmacy and the maintenance of security provisions are the responsibility of the pharmacist-in-charge whether the owner is a sole proprietor, partnership, association, corporation or any

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other entity.

- 3) Within 10 days after the change of a pharmacist-in-charge, the Division ~~Department~~ shall be ~~so~~-notified in writing by the departing pharmacist-in-charge.
- 4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substance:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion and preservation of the inventory record bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge shall be submitted to the Division~~Department of Professional Regulation~~, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the affidavit required in subsections (d)(4) and (5) ~~above~~ shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board.
- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division ~~Department~~ because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain ~~thesueh~~ relevance or sufficiency, clarify information given or clear up any

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discrepancies of conflicts in information.

- 8) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale dispensed medications, chemicals, poisons or medical devices except for:
 - A) Medical devices ~~that~~which can be properly sanitized prior to reuse, resale or reren; and
 - B) Medications that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by a current United States Pharmacopoeia/National Formulary published by the United States Pharmacopoeial Convention, Inc.
- e) Medication Dispensing in the Absence of a Pharmacist – the availability of necessary medications for immediate therapeutic use during those hours when the institutional pharmacy is not open shall be met in the following manner:
 - 1) An after-hour cabinet, which is a locked cabinet or other enclosure located outside of the pharmacy area containing a minimal supply of the most frequently required medication, may be utilized provided that only personnel specifically authorized by the institution in which the pharmacy is located may obtain access and it is sufficiently secure to deny access to unauthorized persons. After-hour cabinets shall only be used in the absence of a pharmacist. When medication is removed from the cabinet or enclosure, written physician's orders authorizing the removal of the medication shall be placed in the cabinet or enclosure. A log shall be maintained within the cabinet or enclosure and authorized personnel removing medication shall indicate on the log the signature of the authorized personnel removing the medication, name of the medication removed, the strength (if applicable), the quantity removed and the time of removal.
 - 2) Emergency kits containing those drugs which may be required to meet the immediate therapeutic needs of the patient, and which are not available from any other source in sufficient time to prevent risk of harm to patients by delay resulting from obtaining the drugs from the other source, may be utilized. Emergency kits shall be supplied and maintained under the

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supervision of a pharmacist. Drugs shall be removed from emergency kits only by authorized pharmacy personnel, persons authorized to administer medication pursuant to a valid physician's order or a physician licensed to practice medicine in all of its branches in Illinois. Emergency kits shall be sealed in some manner which will indicate when the kit has been opened. A label shall be affixed to the outside of the emergency kit indicating the expiration date of the emergency kit. The expiration date of the emergency kit shall be the earliest expiration date of any drug contained in the kit. After an emergency kit has been used or upon discovery that the seal has been broken or upon the occurrence of the expiration date, the kit shall be returned to the pharmacy to be checked and/or restocked.

- 3) Whenever any drug is not available from night cabinets or emergency kits, and the drug is required to treat the immediate needs of a patient, the drug may be obtained from the pharmacy in sufficient quantity to meet the immediate need by an authorized nurse. When medication is removed from the pharmacy by an authorized nurse, a copy of the physician's order authorizing the removal of said medication shall be conspicuously placed in the pharmacy with the container from which the drug was removed so that it will be found by a pharmacist and checked promptly. A form shall be available in the pharmacy upon which shall be recorded the signature of the authorized nurse who removed the medication, the name, strength (if applicable) and quantity of medication removed.
- 4) Drugs may be dispensed from the emergency room only by a practitioner licensed to prescribe and dispense, and only to patients treated in the institution. This shall occur only during hours in which outpatient institutional pharmacy services are not available. The quantity dispensed should be limited to no more than a 24 hour supply, except for unit use packages (e.g., inhalers, ophthalmics, otics, etc.) to meet the immediate needs of the patient until pharmacy services are available. Drugs dispensed in this manner must meet all labeling requirements pertaining to Division I pharmacies as specified in Section 1330.91. There shall be written policies and procedures, approved by the medical staff, regarding the dispensing of drugs from the emergency room.
- f) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- g) Pharmacies that utilize automated dispensing and storage systems shall comply

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with Section 1330.98 of this Part.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.94 Division IV Pharmacies

- a) Pharmacies which provide and/or offer for sale radiopharmaceuticals shall in addition to any other requirements of the Act and this Part comply with this Section 1330.94.
- b) Prior to issuance of a Division IV pharmacy license:
 - 1) The pharmacy shall provide a copy of their Illinois Radioactive Material License issued by the Illinois Emergency Management Agency ~~Department of Nuclear Safety~~ in accordance with the Radiation Protection Act [420 ILCS 40].
 - 2) The Division ~~Department~~ shall conduct an on-site inspection of the facility.
- c) The pharmacy shall have:
 - 1) Space commensurate with the scope of services provided, but at least 300 square feet; and
 - 2) Radioactive storage and product decay facility, separate from and exclusive of the "hot" laboratory, compounding, dispensing quality assurance and office areas.
- d) Each Division IV Pharmacy shall have the following equipment:
 - 1) Laminar Flow Hood;
 - 2) Fume Hood – minimum of 30 inches in height, which shall be vented through a filter with a direct outlet to the outside;
 - 3) Dose Calibrator;
 - 4) Refrigerator;

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- 5) Class A prescription balance or a balance of greater sensitivity;
 - 6) Single-channel or multi-channel gamma scintillation counter;
 - 7) Microscope;
 - 8) Low level, thin-window portable radiation survey meter;
 - 9) Drawing station – lead glass and lead lined;
 - 10) Syringe shields; and
 - 11) Energy Compensated Geiger Mueller (GM) Probe or ion chamber.
- e) Each Division IV Pharmacy shall have the following reference texts available:
- 1) The current edition or revision of the United States Pharmacopoeia – Dispensing Information;
 - 2) The current edition or revision of the United States Pharmacopoeia/National Formulary;
 - 3) State and federal regulations governing the use of applicable radioactive material; and
 - 4) United States Public Health Service, Radiological Health Handbook.
- f) Pharmacist-in-Charge
- 1) Designation as a Division IV pharmacy shall only be granted if the pharmacist-in-charge is a nuclear pharmacist meeting the requirements set forth in subsection (i). No registered pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of nuclear pharmacy;
 - B) Establishment and supervision of the recordkeeping system for the purchase, acquisition, disposition, sale, delivery, possession,

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storage and safekeeping of radiopharmaceuticals; and

C) Establishment and maintenance of security provisions, which shall include the following:

i) There shall be no public access to the pharmacy hot lab/dispensing area; and

ii) In the absence of a nuclear pharmacist all radiopharmaceuticals shall be locked and accessible only to a nuclear pharmacist or an individual under direct supervision of the pharmacist; except, a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals may have access to radiopharmaceuticals in the absence of a nuclear pharmacist.

2) Within 10 days after the change of a pharmacist-in-charge, the Division ~~Department~~ shall be ~~so~~-notified in writing by the departing pharmacist-in-charge.

g) Dispensing Radiopharmaceuticals

1) A radiopharmaceutical shall be dispensed only upon a prescription order from a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.

2) No radiopharmaceutical shall be dispensed in the absence of a nuclear pharmacist except, a licensed medical practitioner authorized to possess, use, dispense, and administer radiopharmaceuticals may dispense in the absence of a nuclear pharmacist.

3) The amount of radioactivity in a preparation for dispensing shall be determined by radiometric methods for each individual preparation at the time of preparation, and calibrated for the anticipated time of administration.

h) Labeling Requirements

1) In addition to the labeling requirements of pharmaceuticals, as stipulated

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in the Act, the immediate outer container of a radioactive drug, diagnostic agent or device to be dispensed shall also be labeled to include:

- A) The standard radiation symbol;
 - B) The words, "Caution-Radioactive Material";
 - C) The name of the radionuclide;
 - D) The name of the chemical form;
 - E) The amount of radioactive material contained, in millicuries or microcuries, in the container contents at the time of calibration;
 - F) If the container contents are in liquid form, the volume in milliliters;
 - G) The requested calibration time for the amount of radioactivity contained;
 - H) The prescription number; and
 - I) The name or initials of the nuclear pharmacist filling the prescription.
- 2) The immediate container shall be labeled with:
- A) The standard radiation symbol;
 - B) The words, "Caution-Radioactive Material";
 - C) The name and address of the pharmacy;
 - D) The prescription number;
 - E) Name of radionuclide; and
 - F) Name of chemical form.
- i) Nuclear Pharmacist Requirements – A nuclear pharmacist who serves as the

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pharmacist-in-charge of a Division IV pharmacy and all other pharmacists employed in the pharmacy shall provide evidence to the ~~Division~~ ~~Department~~ of the following:

- 1) Licensure as a Pharmacist in the State of Illinois; and
 - 2) That he/she is named as an authorized user or works under the supervision of a pharmacist who is named as an authorized user on a commercial nuclear pharmacy license issued by the Illinois ~~Emergency Management Agency~~ ~~Department of Nuclear Safety~~ or in the case where a nuclear pharmacist, who works under a broad medical license at a university or research hospital, has been approved as a user by that institution's radiation safety committee in accordance with conditions of the license issued by the Illinois ~~Emergency Management Agency~~ ~~Department of Nuclear Safety~~.
- j) Nothing in this Part shall prohibit the operation of a nuclear medicine laboratory or any other department which is operated under the direct supervision of a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.95 Division V Pharmacies

- a) Pharmacies Required to Hold Division V Licenses
 - 1) Pharmacies which are located in or provide service to ambulatory care facilities, schools of veterinary medicine or other institutions or facilities. In addition to other requirements of the Act and this Part, these pharmacies shall comply with this Section.
 - 2) Pharmacies that hold Division II licenses and provide pharmacy services to the general public. In addition to other requirements of the Act and Rules, these pharmacies shall comply with Section 1330.92 and this Section.
 - 3) Pharmacies that hold Division III licenses and provide pharmacy services to the general public. In addition to other requirements of the Act and Rules, these pharmacies shall comply with Section 1330.93 and this

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- b) Recordkeeping Requirements for Filling Prescriptions
- 1) Every prescription filled or refilled shall contain the handwritten name, initials or other unique identifier of the person authorized to practice pharmacy under the provisions of the Act who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the person authorized to practice pharmacy in the State of Illinois who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 2) Whenever a prescription, written or oral, is filled or refilled, by a registered pharmacy technician under the supervision of a pharmacist, the same shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the same. Additionally, the label affixed to the drug container must indicate the same initials.
 - 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.
 - B) If the pharmacist doesn't otherwise indicate in a uniformly

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maintained record, he shall be deemed to have dispensed a refill for the full face amount of the prescription.

- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the face of the original prescription and record the date the copy is issued, to whom issued, and his/her signature on the face of the original prescription. Copies of prescriptions shall be marked "For Information Purposes Only", and may neither be filled nor refilled.
- 6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system ~~that~~which meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and ~~that~~which contain no further amendments or editions, and shall include the capability to:
 - A) Retrieve the original prescription order information for those prescription orders ~~which are~~ currently authorized for refilling;
 - B) Retrieve the current prescription orders ~~that~~which shall, at a minimum, include name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill, and the total number of refills dispensed to date;
 - C) Supply documentation of the correctness of refill information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's refill data ~~that~~which has been verified, dated and signed by the dispensing pharmacist. This printout must include for each script refilled at least the following information:

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- i) The name and dosage form of the drug;
- ii) The date of each refilling;
- iii) The quantity dispensed;
- iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
- v) The patient's name;
- vi) The prescriber's name; and
- vii) The prescription number for the prescription.

In lieu of a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

- 7) All refill data shall be maintained by the pharmacy on the premises for 5 years in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, ~~Department~~ upon request, within 48 hours.

c) Transfer of Prescription Information

- 1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:
 - A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of the copy and the name of the transferor pharmacist issuing the transferred

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prescription order; and

- B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:
 - i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - ii) All information constituting a prescription order, including the following: name of drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and
- C) The transferee pharmacist informs the patient that the original prescription has been cancelled at the pharmacy from which it has been transferred.

- 2) A prescription for Schedule III, IV and V drugs may be transferred from original pharmacy one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
- 3) Computerized systems must satisfy all information requirements of subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.

d) Staffing of the Pharmacy

- 1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be compliance with the following:

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- A) The schedule during which the practice of pharmacy is carried on in ~~the~~ pharmacy shall be conspicuously displayed.
- B) When the pharmacy is closed, the public and any employees not registered under the Act are to be prohibited access to the area.
- C) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters:
PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS
FILLING OF PRESCRIPTIONS IN THE ABSENCE OF A
PHARMACIST.
- D) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.
- 2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy is considered providing ~~pharmaceutical services~~ ~~Pharmaceutical Services~~ when a pharmacist is physically present in the establishment and available for consultation.
- e) Pharmacist-in-Charge
- 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of ~~the~~ pharmacist-in-charge shall include:
- A) Supervision of all the activities of all employees as they relate to the practice of pharmacy;
- B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed, as set forth in Section 1330.75; and
- C) Establishment and supervision of the recordkeeping system for the

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purchase, sale, delivery, possession, storage and safekeeping of drugs.

- 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
- 3) Within 10 days after the change of a pharmacist-in-charge, the Division ~~Department~~ shall be ~~so~~ notified in writing by the departing pharmacist-in-charge.
- 4) In addition to notifying the Division ~~Department~~ within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
- 5) Such inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Division ~~Department of Professional Regulation~~, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the information required in subsections (e)(3), (4) and (5) ~~above~~ shall be grounds for denying licensure application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board in accordance with Sections 30-39 of the Act and 68 Ill. Adm. Code 1110.
- 7) When the accuracy, relevance or completeness of any submitted documentation is questioned by the Division ~~Department~~ because of lack

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of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:

- A) Provide such information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain [thesueh](#) relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:
- 1) Medical devices that can be properly sanitized prior to reuse, resale or re-rent; and
 - 2) Medications and medical devices that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia ([USP U.S.P.](#))/National Formulary or by the United States Pharmacopoeial Convention, Inc.
- g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.96 Nonresident Pharmacies

- a) The Board shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this State that dispense medications for Illinois residents and mail, ship or deliver prescription medications into this State. Nonresident special pharmacy registration shall be granted by the Board upon the disclosure and certification by a pharmacy:
 - 1) That it is licensed in the state in which the dispensing facility is located

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and from which the drugs are dispensed;

- 2) Of the location, names and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this State;
 - 3) That it complies with all lawful directions and requests for information from the board of pharmacy of each state in which it is licensed or registered, except that it shall respond directly to all communications from the Board concerning emergency circumstances arising from the dispensing of drugs to residents of this State;
 - 4) That it maintains its records of drugs dispensed to residents of this State so that the records are readily retrievable from the records of other drugs dispensed;
 - 5) That it cooperates with the Board in providing information to the board of pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this State; and
 - 6) That during its regular hours of operation, but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this State and a pharmacist at the pharmacy who has access to the patients' records. The toll-free number must be disclosed on the label affixed to each container of drugs dispensed to residents of this State.
- b) To obtain nonresident special pharmacy registration in Illinois, an applicant shall file an application with the ~~Division~~Department, on forms provided by the ~~Division~~Department, ~~that~~which includes:
- 1) Disclosure and certification of information required in subsections (a)(1) through (6) ~~above~~; and
 - 2) The required fee pursuant to Section 27(C)(1) ~~of the Act~~.
- c) Nonresident special pharmacy registration shall expire on March 31 of each even numbered year and may be renewed during the 60 days preceding the expiration date by paying the fee required by Section 27(C)(2) ~~of the Act~~.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

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Section 1330.98 Automated Dispensing and Storage Systems

- a) This Section sets forth standards for Divisions I, II, III and V pharmacies whose practice includes the use of automated dispensing and storage systems. Automated dispensing and storage systems shall not be used in Division IV pharmacies.
- b) Definitions
"Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding, or administration, relative to the storage, packaging or dispensing of medications, and that collect, control, and maintain all transaction information.
- c) Automated Dispensing and Storage Systems
 - 1) Automated dispensing and storage systems may be utilized in Division I, Division II, Division III and Division V licensed pharmacies.
 - 2) When automated dispensing systems are used in health care facilities licensed under the Hospital Licensing Act, Nursing Home Care Act, the University of Illinois Hospital Act, or facilities operated by the Illinois Department of Corrections or Department of Human Services, only persons properly licensed under Illinois laws who have authority to administer medications or persons working under the direct supervision of those individuals shall have access for removal of prescription medications for patient use. When the systems are used within a licensed pharmacy, a pharmacist shall be responsible for dispensing the product. Automated dispensing and storage systems shall not be used for direct patient access to prescription medications.
 - 3) Documentation as to type of equipment, serial numbers, content, policies and procedures, and locations shall be maintained on-site in the pharmacy for review by the ~~Division~~Department. Such documentation shall include, but not be limited to:
 - A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
 - B) Manufacturer's name and model;

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- C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and
 - D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance, medication inventory, staff education and training, system set-up and malfunction.
- 4) Automated dispensing and storage systems shall be used only in settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.
- 5) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:
- A) Prevent unauthorized access or use;
 - B) Comply with any applicable federal and State regulations; and
 - C) Maintain patient confidentiality.
- 6) Records and/or electronic data kept by automated dispensing and storage systems shall meet the following requirements:
- A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;
 - B) Records must be maintained by the pharmacy and must be readily available to the ~~Division~~Department. Such records shall include:
 - i) identity of system accessed;
 - ii) identification of the individual accessing the system;
 - iii) type of transaction;

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- iv) name, strength, dosage form and quantity of the drug accessed;
 - v) name of the patient for whom the drug was ordered;
 - vi) identification of the registrants stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and
 - vii) such additional information as the pharmacist-in-charge may deem necessary.
- 7) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by registrants under the Act.
- 8) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified in this subsection (c)(8) below:
- A) Parenteral solutions to which a drug or diluent has been added, or that which are not in their original manufacturer's packaging, shall contain the following information on the outer label:
 - i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs or diluent added;
 - iii) Date and expiration date of the admixture. The expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal (e.g., the Federal Drug Administration Act) or USP-U.S.P. requirements, whichever is earlier; and
 - iv) Reference code to identify source and lot number of drugs

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or diluent added.

- B) Non-parenterals repackaged for future use shall be identified with the following information:
- i) Trade and/or generic name;
 - ii) Strength (if applicable);
 - iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal or USP U.S.P. requirements, whichever is earlier; and
 - iv) Reference code to identify source and lot number.
- C) Exceptions to the "unit of use" requirements in subsections (c)(8)(A) and (B) are as follows:
- i) Injectable medications stored in their original multi-dose vial (e.g., insulin, heparin) where the medication may be withdrawn into a syringe or other delivery device for single patient use; or
 - ii) Over-the-~~counter~~Counter (OTC) products stored in their original multi-dose container (e.g., antacids, analgesics) where the medication may be withdrawn and placed into an appropriate container for single patient use.
- 9) For medication removed from the system for on-site patient administration, the system must document the following information:
- A) Name of the patient or resident;
 - B) Patient's or resident's unique and permanent identifier, such as admissions number or medical records number;
 - C) Date and time medication removed from the system;

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- D) Name, initials, or other unique identifier of the person removing the drug; and
 - E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the ~~Division~~Department.
- 10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated dispensing and storage systems (e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:
- A) Medical devices which can be properly sanitized prior to reuse or reissue; and
 - B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current ~~USP~~U.S.P./National Formulary, or by the ~~USP~~U.S.P. Conventions, Inc.
- 11) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for wasted medications or discarded medications.
- 12) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:
- A) Safety monitors (e.g., wrong medications removed and administered to patient);
 - B) Accuracy monitors (e.g., filling errors, wrong medications removed); and

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- C) Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).
- 13) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the ~~Division~~ ~~Department~~ by the pharmacist-in-charge within 30 days after acquiring knowledge of the incident.
- 14) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or removal of any medication from the system for immediate patient administration. This does not apply to the following situations:
- A) The system is being used as an after hours cabinet for medication dispensing in the absence of a pharmacist as defined in Section 1330.93(e)(1);
 - B) The system is being used in place of an emergency kit as defined in Section 1330.93(e)(2);
 - C) The system is being used to provide access to medication required to treat the immediate needs of a patient as defined in Section 1330.93(e)(3). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A pharmacist shall check such orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).
- 15) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:
- A) List of medications to be stored in each system;
 - B) List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and

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- C) List of medications qualifying for control purposes.
- 16) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.
- 17) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.
- d) Duties and Responsibilities of the Pharmacist-in-Charge
- 1) The pharmacist-in-charge shall be responsible for:
 - A) Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;
 - B) Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, which is evidenced by written policies and procedures developed by the pharmacy;
 - C) Providing the ~~Division Department~~ with written notice 30 days prior to the installation of or at the time of removal of an automated storage and dispensing system. Such notice must include, but is not limited to:
 - i) the name and address of the pharmacy;
 - ii) the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;
 - iii) the automated dispensing and storage system's manufacturer and model;

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- iv) the pharmacist-in-charge; and
 - v) a written description of how the facility intends to use the automated storage and dispensing system;
- D) Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Such access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.
- 2) Additional responsibilities of the pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall include:
- A) Authorizing the assigning of access to, discontinuing access to, or changing access to, the system;
 - B) Ensuring that access to the medications complies with State and federal regulations as applicable; and
 - C) Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy policies and procedures.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.99 Parenteral Product Standards

- a) This Section sets forth standards for Divisions I, II, III, IV and V pharmacies whose practice includes the preparation, labeling and distribution of parenteral products pursuant to prescriptions or drug orders, as defined in the Act. These activities may include, but are not limited to:
 - 1) Sterile preparation of parenteral therapy, parenteral nutrition; and
 - 2) Sterile preparations of cytotoxic or antineoplastic agents.
- b) Definitions

Barrier Isolation Chamber – an apparatus designed to provide a Class 100 environment for preparation of sterile products using solid walls rather than air

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movement (laminar air flow) to create a critical zone for product handling, a HEPA filtration system that conditions the air flowing through the unit to remove initial particles and particles generated within the controlled environment, and a means by which products are introduced and people interact with the product being prepared within the unit.

Biological Safety Cabinet – containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel and environment, according to National Sanitation Foundation (NSF) Standard 49.

Cytotoxic – a pharmaceutical that has the capability of killing living cells. These agents shall include, but are not limited to, agents classified as cancer chemotherapeutic, carcinogenic, mutagenic and antineoplastic.

Laminar Airflow Hood – apparatus designed to provide a Class 100 environment for preparation of sterile products using air circulation in a defined direction that passes through a HEPA filter to remove the initial particles and particles generated within the controlled environment.

Parenteral – sterile preparations of drugs for injection through one or more layers of the skin.

Terminal – a patient whose medical condition indicates his/her life expectancy to be 6 months or less.

c) Physical Requirements of Pharmacies Preparing Sterile Parenteral Products

- 1) The pharmacy shall have a designated area for preparing sterile parenteral products. The area shall be designed to minimize outside traffic and airflow disturbances from activity within the facility. It shall be of sufficient size to accommodate a laminar airflow hood, barrier isolation chamber or biological safety cabinet and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation and security. It shall be ventilated in a manner not interfering with the proper operation of the parenteral products preparation apparatus.
- 2) The licensed pharmacy preparing sterile parenteral products shall have the following:

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- A) Laminar airflow hood
 - i) Laminar airflow equipment shall be certified annually in accordance with Federal Standard 209E (for horizontal laminar airflow equipment) or National Sanitation Foundation Standard 49 (for vertical laminar airflow equipment).
 - ii) In the event the preparation apparatus is moved from its site of certification, recertification shall occur.
 - iii) Prefilters must be replaced or cleaned monthly and documentation of this maintained;
 - B) Sink with hot and cold running water, which is convenient to the compounding area;
 - C) Environmental Protection Agency approved disposal containers for used needles, syringes, etc., and if applicable, cytotoxic waste from the preparation of chemotherapy agents and infectious wastes;
 - D) Biohazard cabinetry for environment control when cytotoxic drug products are prepared;
 - E) Refrigerator and/or ~~freezer~~Freezer with a thermometer;
 - F) Temperature controlled container for off site deliveries.
- 3) The following current resource materials and texts shall be maintained in the pharmacy:
- A) United States Pharmacopoeia/National Formulary ([USP](#)/~~U.S.P.~~/NF);
 - B) American Hospital Formulary Service;
 - C) Copies of the Illinois Pharmacy Practice Act and [this Part](#)~~Rules~~, the Illinois Controlled Substances Act [\[720 ILCS 570\]](#) and Rules, 21 CFR and the Illinois Hypodermic Syringes and Needles Act

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[\[720 ILCS 635\]](#);

- D) One compatibility reference such as:
 - i) Trissel's Handbook on Injectable Drugs;
 - ii) King's Guide to Parenteral Admixtures; or
 - iii) Any other ~~Division~~ ~~Department~~ approved publication;
 - E) A file on extended (more than 24 hours) stability data given to finished products.
- d) Staffing. A pharmacist shall be accessible at all times at each licensed facility to respond to patients' and health professionals' questions and needs. A 24-hour telephone number will be included on all labeling of compounded medication and medication infusion devices if off site.
- e) Drug Distribution and Control
- 1) Patient Profile or Medication Record System. A pharmacy generated patient profile or medication record system must be separate from the prescription file. The patient profile or medication record system shall contain, at a minimum:
 - A) Patient's full name;
 - B) Date of Birth or Age;
 - C) Sex;
 - D) Sterile products dispensed;
 - E) Date dispensed, if off site;
 - F) Drug content and quantity;
 - G) Patient directions, if off site;
 - H) Identifying number;

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- I) Identification of dispensing pharmacist and, if applicable, pharmacy technician;
 - J) Other drugs patient is receiving;
 - K) Known drug sensitivities and allergies to drugs and foods;
 - L) Diagnosis; and
 - M) Lot numbers of components or individual medicine if product is not used within 48 hours of preparation.
- 2) Labeling. Each parenteral product dispensed to patients shall be labeled with the following information with a permanent label:
- A) Name, address and telephone number of the licensed pharmacy, if not within facility;
 - B) Administration date and identifying number if used on site, date dispensed and identifying number if used off site;
 - C) Patient's full name and room number, if applicable;
 - D) Name of each drug, strength and amount;
 - E) Directions for use and/or infusion rate if used off site;
 - F) Prescriber's full last name if used off premises;
 - G) Required controlled substances transfer warnings, when applicable;
 - H) Expiration date and expiration hour;
 - I) Identity of pharmacist compounding and dispensing, or other authorized individual; and
 - J) Auxiliary ~~Auxillary~~ labels, storage requirements if applicable.

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- 3) The pharmacist-in-charge shall ensure that records are maintained for 5 years and are readily retrievable and in a format that provides enforcement agents an accurate and comprehensive method of monitoring distribution via an audit trail. The records shall include at least the following information:
 - A) Patient profile;
 - B) Medication Record System;
 - C) Purchase records; and
 - D) Lot numbers of the components used in compounding sterile prescriptions/orders traceable to a specific patient, if not included on patient profile and if the product is not utilized within 48 hours ~~of~~ after preparation.
- f) Delivery Service. The pharmacist-in-charge shall assure the environmental control of all products shipped or delivered off site. Therefore, any compounded, sterile pharmaceutical must be shipped or delivered to a patient in temperature controlled (as defined by USP U.S.P. Standards) delivery containers.
- g) Cytotoxic Drugs. The following additional requirements are necessary for those licensed pharmacies that prepare cytotoxic drugs:
 - 1) Safety and containment techniques for compounding cytotoxic drugs shall be used.
 - 2) Disposal of cytotoxic waste shall comply with all applicable local, State and federal requirements.
 - 3) Prepared doses of cytotoxic drugs must be dispensed, labeled with proper precautions inside and outside and shipped in a manner to minimize the risk of accidental rupture of the primary container.
 - 4) Must have as a reference Procedures for Handling Cytotoxic Drugs/American Society of Hospital Pharmacists (ASHP).

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

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Section 1330.100 Application for a Pharmacy License

- a) Establishing, Relocating or Changing Ownership
- 1) Any person who desires to establish, relocate or change the ownership of a pharmacy shall file an application on forms supplied by the ~~Division~~~~Department~~, together with the fee required by Section 27(C)(1) of the Act and specify the applicable ~~division~~ ~~Division~~ as defined in Section ~~1330.05~~~~1330.70~~.
 - 2) Upon determination that the application is in good order, an inspection of the premises will be conducted to determine compliance with Section 14 of the Act. An application shall be in good order when it is signed, notarized and the license of the pharmacist-in-charge has been verified to be in good standing with the ~~Division~~ ~~Department~~ and that he/she is not a pharmacist-in-charge at another pharmacy.
 - 3) Upon recommendation of the Drug Compliance Coordinator, the Board may request the owner of the pharmacy and the pharmacist-in-charge to appear for an interview with the Board.
 - 4) No pharmacy license shall be issued unless the pharmacy meets the requirements of Section 14 of the Act and the requirements for each applicable ~~division~~ ~~Division~~ as set forth in ~~Sections~~~~Section~~ 1330.91, 1330.92, 1330.93, 1330.94 and/or 1330.95.
 - 5) No pharmacy license shall be issued if outdated drugs are in stock.
- b) For a change of name of pharmacist-in-charge only, the owner shall be required to file an application on forms supplied by the Department, together with the required fee and submit the present license. The Department shall evaluate the application and, if satisfactory, issue a new license.
- c) Within ~~30~~ ~~thirty~~ ~~(30)~~ days ~~after~~~~of~~ issuance of a pharmacy license, the pharmacy for which the licensure was requested shall be open to the public for pharmaceutical services.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.110 Granting Variances

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- a) The Director may grant variances from ~~this Part these rules~~ in individual cases where he/she finds that:
- 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the State Board of Pharmacy of the granting of ~~the such~~ variance, and the reasons ~~for granting the variance therefor~~, at the next meeting of the Board.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.120 Renewals

- a) Every license issued under the Act except the certificate of registration as a pharmacy technician shall expire on March 31 of each even numbered year. Every certificate of registration as a pharmacy technician issued under the Act shall expire annually on March 31. The holder of a license or certificate of registration may renew the license or certificate during the 60 days preceding the expiration date by paying the required fee.
- b) It is the responsibility of each registrant to notify the ~~Division Department~~ of any change of address. Failure to receive a renewal form from the ~~Division Department~~ shall not constitute an excuse for failure to pay the renewal fee.
- c) Practicing or operating on a license or certificate ~~that which~~ has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 30 of the Act.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.130 Restoration

- a) A registrant seeking restoration of a certificate of registration ~~that which~~ has

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expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees required by Section 27 of the Act and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.

- b) A registrant seeking restoration of a certificate of registration ~~that~~^{which} has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.
- c) A registrant seeking restoration of a certificate of registration after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the ~~Division~~^{Department}, together with the fee required by Section 27 of the Act and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part. The registrant shall also submit either:
- 1) Certification of active practice in another jurisdiction. Evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice;
 - 2) An affidavit attesting to military service as specified in Section 12 of the Act. The applicant restoring a license shall be excused from the payment of any lapsed fee or any restoration fees.
 - 3) A registrant who is unable to submit proof of satisfaction of either subsection (c)(1) or (2), ~~above~~, shall submit proof of completion of:
 - A) 15 clock hours of refresher courses or continuing education for each year the license was expired; or
 - B) Up to 400 hours of clinical practice under the supervision of a pharmacist.The course work or clinical training described in subsections (c)(3)(A) and (B), ~~above~~, shall have the prior approval of the Board.
- d) When the accuracy of any submitted documentation, or the relevance or

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sufficiency of the course work or experience is questioned by the Division Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information given or clear up any discrepancies in information.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

Section 1330.140 Continuing Education

- a) Continuing Education Requirements
 - 1) Each person who applies for renewal of a license as a pharmacist shall complete 30 hours of continuing education (CE) during the 2 calendar years preceding the expiration date of the license in accordance with Section 12 of the Act.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal after original licensure.
- b) Approved Continuing Education
 - 1) CE credit shall be based upon the completion of courses offered by providers approved by the American Council on Pharmaceutical Education. These courses may be completed outside the State of Illinois.
 - 2) Undergraduate coursework taken after completion of a first professional degree in pharmacy through a recognized college or approved school of pharmacy (in accordance with Section 1330.20 of this Part) may be used to fulfill the CE requirement if:
 - A) Evidence of course completion through an official transcript and other documentation (e.g., certificate of completion or degree) of the university or college is submitted thatwhich indicates the number of course content hours completed; and

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- B) These courses are completed for college credit.
 - C) CE credit will be earned for each undergraduate course completed.
- c) Certification of CE Requirements
- 1) Each renewal applicant shall certify on the renewal application full compliance with CE requirements set forth in subsection (a), ~~above~~.
 - 2) The ~~Division~~ Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of the compliance (e.g., certificate of attendance or completion). Evidence shall be required in the context of the ~~Division's~~ Department's random audit in accordance with Section 12 of the Act.
- d) The same CE hours cannot be used to fulfill the CE requirement for more than one renewal period.
- e) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the ~~Division~~ Department a renewal application along with the required fee, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the ~~Division~~ Department, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the ~~Division~~ Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.
 - 2) Good cause shall be defined as an inability to fulfill the CE requirements during the applicable period because of:
 - A) Full-time service in the armed forces of the United States of America during ~~the applicable~~ sueh period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:

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- i) An incapacitating illness, documented by a currently licensed physician; or
 - ii) A physical inability to travel to the sites of approved programs, as documented by a currently licensed physician; or
 - iii) Any other similar extenuating circumstances (e.g., illness of family member).
- 3) An interview before the Board with respect to a request for waiver shall be granted only if the interview is requested at the time the request for the waiver is filed with the ~~Division~~Department. The renewal applicant requesting a waiver shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (d)(1) of this Section shall be deemed to be in good standing until the final ~~Division~~Department's decision on the application has been made.

(Source: Amended at 29 Ill. Reg. 13639, effective August 25, 2005)

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- 1) Heading of the Part: Administrative Complaint Procedures for Violations of Title III of HAVA
- 2) Code Citation: 26 Ill. Adm. Code 150
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
150.5	New
150.10	New
150.15	New
150.20	New
150.25	New
150.30	New
150.35	New
150.40	New
150.45	New
150.50	New
150.55	New
150.60	New
150.65	New
150.70	New
150.75	New
150.80	New
150.85	New
150.90	New
150.95	New
150.98	New
150.100	New
150.105	New
150.110	New
150.115	New
150.120	New
150.125	New
150.130	New
150.135	New
150.140	New
150.145	New
- 4) Statutory Authority: Authorized by Title IV Section 402 of the Help America Vote Act [HAVA] codified at 42 USC 15301 to 15545 and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

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- 5) Effective Date of Rulemaking: August 25, 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 rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 15716; December 10, 2004
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: In addition to nonsubstantive, technical changes, the following changes were made in agreement between the proposal and final version.

In the Table of Contents, added a new section heading that reads "150.98 Notice of Hearing", and Section 150.130 was revised to read "Order of Proceeding, Record, Recommendation and Notice".

In the AUTHORITY, in the second line, "110" was changed to "10" in "[5 ILCS 100/10-5]" Also, "and Section 1A-8(9) of the Election Code [110 ILCS 5/1A-8(9)]" was added in the last line.

In Section 150.10, in the definition of "Election Code", added "Election" before "Code". In the definition "Hearing", "closed" was deleted before "preliminary", and "(b)" was changed to "(c)". In the definition "Respondent", after "means", added "an Election Authority, the State Board of Elections, or any other" and deleted "any named".

In Section 150.20(c), after "attorney", added ". The address and fax number provided by the complainant may be relied upon by all other parties for the transmission of all documents pursuant to Section 150.35" and deleted "or his authorized representative and the designation of such address or fax number shall be deemed to be consent by the complainant to have a copy of all documents filed or to be filed thereafter served upon the party at such address or fax number."

In Section 150.25, in the third line after "attorney", deleted "or authorized representative".

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In Section 150.30(b), "Preliminary Review" was added as the heading for subsection (b).

In Section 150.30(b)(2), "provisions of the" was deleted in the fourth sentence, the ending period was deleted, and ", within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code." was inserted.

In Section 150.30(c), deleted "closed" before "preliminary". In the last sentence, deleted "provisions of the" and inserted ", within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code".

In Section 150.30(d), deleted "provisions of the" and inserted ", within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code", in the last sentence.

In Section 150.30(f), deleted "cannot resolve the issues raised in" and added "fails to render a final determination with respect to" after "Board".

In Section 150.35, in the second line after "attorney", deleted "or other authorized representative".

In Section 150.40, in the first line, changed "150.30(e)" to "150.30(f)". In the last line of Section 150.40, added "Election" before "Code".

In Section 150.45, revised language to read: "The parties to a complaint filed pursuant to this Part may appear on their own behalf or by an attorney at law who is licensed to practice in the State of Illinois. Any person appearing pro se or by an attorney shall file a written notice of appearance with the hearing examiner. The appearance form may be submitted at the beginning of the hearing; however, if no hearing is requested by the complainant, the appearance form shall be submitted to the hearing examiner, pursuant to Section 150.35, within 15 business days after the filing of the complaint."

In Section 150.50, added a period after "proceedings" and added new language that reads: "The State Board of Elections, including any hearing examiners, shall provide any required assistance to persons with disabilities. Assistance may include, but is not limited to, sign language interpreters, large print or Braille materials and access to the location of any hearings or meetings of the Board."

In Section 150.75, in the eighth line, deleted "five" and added "10", and in the ninth line after "received", added "by the General Counsel pursuant to Section 150.35" and changed "three" to "five" before "business".

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In Section 150.85, in the last line, deleted "and may order additional parties to be brought in pursuant to the provisions of Section 150.60".

Added a new Section 150.98 that reads: "The hearing examiner shall provide written notice to the parties not less than 10 business days prior to the hearing. The notice shall include the date, time and location of the hearing and be sent via fax and certified mail with a requested return receipt."

In Section 150.105, added a sentence to the end of the paragraph that reads: "Any undue delay, caused by either party may be grounds for assignment of alternative dispute resolution service costs to that party, pursuant to Section 150.145."

In Section 150.115, added an opening sentence that reads: "The hearing is an inquiry to elicit evidence on the question of whether the complaint is sufficiently grounded in fact and law."

After Section 150.115(c), added new subsections (d), (e), and (f) that read:

- "d) Any person offering evidence, written or oral, shall affirm to the hearing examiner that his or her evidence is true to the best of their information and belief;
- e) The hearing examiner may admit and rely upon, for his recommendation, evidence or information of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs;
- f) Evidence may be submitted in narrative form."

In Section 150.125(a), after "Administrative Procedure Act", added "and Section 9-18 of the Election Code".

In Section 150.125(b)(2), added a new sentence that reads: "The subpoena in this instance may provide that personal attendance is not required."

In Section 150.125(c), the language was revised to read: "The party requesting the issuance of a subpoena compelling personal attendance shall tender with the subpoena a check reimbursing the witness for the round trip cost of travel between the witness's place of residence and the place where his or her presence is requested. Reimbursement shall be equal to that provided by the Governor's Travel Board for reimbursement of State employees traveling on official State business."

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In the heading of Section 150.130, "Scope of Hearing, Procedures and Evidence" was deleted and "Order of Proceeding, Record, Recommendation and Notice" was inserted.

In Section 150.130(a), language was changed to read: "The complainant shall present his or her case first unless the hearing examiner concludes that overall fairness demands a different order or the parties consent to a different order of presentation, approved by the hearing examiner."

In Section 150.130, deleted subsections (a)(1), (2), (3), (4) and (5).

In Section 150.130(c), in the last line, added "and General Counsel" after "examiner".

In Section 150.130, added a new subsection (d) that reads: "The State Board of Elections shall provide written notice to the parties not less than seven business days prior to the meeting of the State Board of Elections at which the complaint will be presented for final Board disposition. The notice shall include the time, date and location of the meeting and be sent via fax and certified mail with a requested return receipt."

In Section 150.135(a)(1), added "of the hearing examiner, the transcript of the proceedings, and all admitted evidence to".

In Section 150.135(a)(2), in the last line, deleted "therefore" and added "for the nonconcurrence".

In Section 150.135(b), the language was revised to read: "If the Chairman of the Board determines that circumstances exist that would make it impossible for the General Counsel to provide a written recommendation to the Board, the recommendation may be given orally. For purposes of making the official record complete, the General Counsel shall, within three business days of giving his oral recommendation, create a written recommendation setting forth the same analysis and reasoning as that contained in the oral recommendation. The written recommendation shall be sent to the parties pursuant to Section 150.35."

In Section 150.140(a), the language was revised to read: "After the submission of the recommendation of the hearing examiner, the transcript (if requested by the Board), and the recommendation of the General Counsel, the Board shall make a final determination of whether the complaint was sufficiently grounded in fact and law and the determination shall be set forth in the form of a Board Order. If the Board determines that the complaint was sufficiently grounded in fact and law, the Board shall, in its order, take

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whatever action it is authorized under federal or State law and deems appropriate under the circumstances to correct the matter complained of and shall provide a timeframe in which its order must be complied with and the consequences of failure to comply. If the Board determines that the complaint is not sufficiently grounded in fact and law, and does not allege a violation of Title III of the Act, then the Board shall dismiss the complaint or refer it to the proper agency or department for consideration. Regardless of the Board's disposition of the matter, the Board shall issue a written final order, subject to the Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election."

In Section 150.140, a new subsection (c) was added that reads: "All final orders shall be posted on the State Board of Elections website. In addition, copies of the orders shall be given to the parties and be made available to the public."

In Section 150.145, the language was revised to read: "If the State Board of Elections fails to resolve the complaint within 90 days after its filing, or the parties refuse to waive the 90 day deadline, the Board shall select a person, company or association providing dispute resolution services ("the service provider") to resolve the matter. If the parties object to the Board's selection, they shall be provided an opportunity to select a service provider and their selection shall then be presented to the Board. The Board shall select the service provider in consultation with the parties. If the Board and the parties fail to agree on the choice of the service provider, the names of the selections shall be placed in a container and the service provider shall be determined by lot, drawn by the Chairman of the Board. If the complainant names the Board as a respondent and does not waive his or her right to alternative dispute resolution pursuant to Section 150.30 and the choice of service provider cannot be mutually agreed upon, the Board and the complainant shall select a service provider whose name shall be placed in a container and determined by lot, drawn by the complainant. In all circumstances, the service provider shall have at least two years experience in providing mediation services in Illinois. Pursuant to Section 402 (a)(I) of HAVA, the matter shall be resolved within 60 days after its referral and this time limitation shall be included in any contract for the provision of alternative dispute resolution services. Costs of the service shall be borne by the Board. The record from any hearing conducted within this Part shall be made available for use by the service provider to have costs of the services shifted to either party. The decision of the service provider shall be subject to judicial review. The Board may petition the service provider to have the costs of the services shifted to either party. The petition shall set forth facts warranting the shifting of costs and must show at a minimum that the Board was not properly named as respondent, a determination was made by the service provider that the complaint was completely lacking any basis in fact or law, or unreasonable delay

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caused by the party resulted in the matter not being resolved by the Board within the original 90-day time period."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This adopted Part establishes the procedures to be used by anyone who files a complaint with the State Board of Elections alleging a violation of Title III of HAVA, codified in 42 USC 15301 to 15545. The complaint must be filed within 90 days after the violation or the federal election in which the violation occurred; it must be in writing, stating the specific nature of the violation; it must be signed by the complainant and notarized; and it must be sufficiently grounded in law and in fact. The complaint must then be served by the complainant upon the respondent, who is defined as any entity subject to the provisions of Title III of HAVA.

The general counsel of the State Board of Elections will conduct a preliminary review of the complaint to determine if it alleges a violation of Title III of HAVA and pertains to a federal election and to determine whether the complaint alleges sufficient facts to constitute a cause of action. If it is so determined, then the complaint will be assigned to a hearing examiner and proceed to either a public hearing (if requested by the complainant), or a review, or both to determine whether the complaint is sufficiently grounded in fact and law. After the public hearing or review, the hearing examiner will give a written recommendation that shall be given to both parties, the general counsel and the Board. The matter will then be presented to the Board for final disposition with the granting of the appropriate relief.

If the general counsel determines that the complaint is not sufficient or does not allege a violation of Title III of HAVA, the complaint will be presented to the Board for either dismissal or referral to the appropriate enforcement agency for further action. With the exception of the preliminary review of the general counsel, at all times during the course of the proceedings, the complainant and respondent will be given an opportunity to be present at any hearing or Board deliberation and to offer evidence and argument.

If the complaint names the Board as a respondent, the matter will proceed directly to an alternative dispute resolution service unless waived by the complainant.

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The complaint must be resolved by the Board within 90 days after the filing of the complaint. If the complaint cannot be resolved within such time and the complainant does not waive the deadline, the matter must be turned over to an alternative dispute resolution service. The matter must then be resolved within 60 days following the transfer of the case.

The adopted Part also establishes general procedures for administrative complaint proceedings that closely track the procedures in place to administer complaints filed under the Campaign Finance Act.

- 16) Information and questions regarding these Adopted Rules shall be directed to:

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939

The full text of the Adopted Rules begins on the next page.

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 150

ADMINISTRATIVE COMPLAINT PROCEDURES
FOR VIOLATIONS OF TITLE III OF HAVA

Section

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150.30	Preliminary Review of Complaint
150.35	Documents Pertaining to Hearings
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150.55	Designation of Parties
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AUTHORITY: Authorized by Title IV Section 402 of the Help America Vote Act (HAVA) (42 USC 15512) and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5] and Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 15840, effective November 24, 2004, for a maximum of 150 days; emergency expired April 23, 2005; new Part adopted at 29 Ill. Reg. 13711, effective 13639.

Section 150.5 Applicability

This Part shall apply to the procedures utilized by the State Board of Elections to resolve complaints filed pursuant to Title IV Section 402 of the Help America Vote Act. This Part is authorized by the Act and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

Section 150.10 Definitions

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

"Act" means the Help America Vote Act (Public Law 107-252; 42 USC 15301) and all amendments.

"Board" means the State Board of Elections.

"Complainant" means a party initiating a proceeding under the Act by the filing of a complaint.

"Election Authority" means the county clerk in all counties that do not have a county board of election commissioners, the county board of election commissioners in those counties that have adopted the provisions of Article 6A of the Election Code and the city board of election commissioners in those cities that have adopted the provisions of Article 6 of the Election Code.

"Election Code" means the Illinois Election Code [10 ILCS 5].

"Federal Election" means any election in which candidates for federal office are scheduled to be elected or nominated. For purposes of this definition, federal offices are President and Vice President of the United States, United States Senator, Representative in the United States Congress, delegates and alternate

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delegates to the national nominating convention and candidates for the Presidential Preference Primary.

"Hearing" means the preliminary hearing held pursuant to Section 150.30(c).

"Respondent" means an Election Authority, the State Board of Elections, or any other entity subject to the provisions of Title III of HAVA against whom a complaint is filed.

Section 150.15 Filing of a Complaint

Any person who believes that a violation of any provision of Title III of the Act has occurred, is occurring or is about to occur may file a complaint with the State Board of Elections. The complaint must be filed no later than 90 days after the occurrence of the violation or 90 days after the federal election in connection with which the violation occurred, whatever date is later. Any complaint filed under this Section must allege a violation of Title III of the Act, state specifically the nature of the violation and be sufficiently grounded in fact and in law. In addition, the complaint must state whether the complainant desires a hearing on the record before the State Board of Elections.

Section 150.20 Form of Complaint

- a) All complaints filed under this Part shall be in writing and signed and sworn to (or affirmed) by the person filing the complaint and shall be notarized. In addition, the complaint shall contain the following:
 - 1) The complaint shall be directed to and state the name of the respondent against whom the complaint is directed;
 - 2) The complaint shall state the provisions of the Act alleged to have been violated;
 - 3) The complaint shall state the time, place and nature of the alleged offense; and
 - 4) The complaint shall be verified, dated and signed by the complainant in substantially the following manner:

Verification

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"I declare that this complaint (including any accompanying exhibits and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Section 402 of the Help America Vote Act."

Signed and sworn to (or affirmed) by _____

Name of Complainant

before me on this _____ day of 20 ____.

Signature of Notary Public

(SEAL OF NOTARY)

- b) Upon filing of a complaint, the office of the General Counsel shall assign a docket number to the complaint and proceeding, and all documents thereafter filed pertaining to that particular complaint or proceeding, shall include the docket number first assigned.
- c) The complaint shall bear the address, telephone number and fax number of the complainant or of his attorney. The address and fax number provided by the complainant may be relied upon by all other parties for the transmission of all documents pursuant to Section 150.35.

Section 150.25 Service of Complaint

The complainant shall serve a copy of the complaint upon the respondent. Service shall be complete when the document is served as provided in the Civil Practice Law [735 ILCS 5/2-203(a)], in person upon the party or his attorney, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party.

Section 150.30 Preliminary Review of Complaint

- a) Any complaint naming an election authority as respondent shall proceed under subsections (b) through (e). A complaint properly naming the Board as respondent shall proceed to the alternative dispute resolution procedures set out in Section 150.145, unless the complainant waives this provision and agrees to proceed under subsections (b) through (e). The waiver shall be in writing and signed by the complainant. A complaint naming both the Board and an election authority as respondents shall be separated for jurisdictional purposes with each

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respondent subject to the procedures set out in the first two sentences of this subsection.

- b) Preliminary Review
 - 1) Upon the filing of a complaint naming an election authority as respondent or upon the filing of a complaint naming the Board as a respondent and containing a waiver as provided in subsection (a), the General Counsel shall perform a preliminary review to determine whether the complaint meets the following requirements to constitute a valid complaint under the Act.
 - A) The complaint alleges a violation under Title III of the Act;
 - B) The complaint pertains to a federal election; and
 - C) The complaint states sufficient facts as to constitute a cause of action under the Act for which the Board can grant appropriate relief.
 - 2) If the General Counsel determines that the complaint meets the above criteria for a valid complaint under the Act, then the complaint shall proceed under subsections (c) and (d). If the General Counsel determines that the complaint has not met the above criteria for a valid complaint under the Act, the complaint shall be presented to the Board for a final determination of its status. In addition, the complainant shall be notified in writing of the General Counsel's determination of the complaint's invalidity and be given an opportunity to appear before the Board to show cause as to why the complaint should not be dismissed. The decision of the Board as to the status of the complaint shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code. As an alternative to summary dismissal of the complaint, the Board may determine that the complaint alleges a violation of the Election Code and refer it for investigation to the appropriate division of the Board or to the appropriate election authority or law enforcement agency.
- c) After a determination by the General Counsel that the complaint meets the criteria set out in subsection (b), and upon the written request of the complainant, the Board shall appoint a hearing examiner to conduct a preliminary hearing. This

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hearing shall be held to determine whether the complaint is sufficiently grounded in fact and law. The request must be a part of or accompany the complaint when filed. Following the hearing, the hearing examiner shall make a written recommendation as to whether the complaint is sufficiently grounded in fact and law and a copy of the recommendation shall be given to the General Counsel for his recommendation and to both parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.

- d) Should the complainant fail to request a hearing, the Board shall appoint a hearing examiner to make a recommendation based solely on the complaint, any evidence submitted with the complaint and any response offered by the respondent as to whether the complaint is sufficiently grounded in fact and law. The hearing examiner shall allow the respondent an opportunity for a hearing to present evidence supporting any offered defense (both documentary and/or testimonial) prior to the hearing examiner submitting the recommendation to the General Counsel. The complainant shall be given notice and an opportunity to be present and participate in the hearing; however, failure of the complainant to appear at the hearing shall not factor into the hearing examiner's recommendation as to whether the complaint is sufficiently grounded in fact and law. After considering all evidence presented by the parties, the hearing examiner shall prepare a written recommendation to be given to the General Counsel for his recommendation and to the parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.
- e) The proceedings of the hearing shall be recorded either by a certified court reporter or by means of an electronic recording device. Any party may provide for his or her own recording of the proceedings of the hearing utilizing a court reporter or any other recording device. Any associated costs, however, shall be borne by the party providing for the recording.

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- f) The Board shall render a final determination of the matters alleged in the complaint within 90 days after the filing of the complaint. The time period may be extended by a written waiver of the complainant. If the Board fails to render a final determination with respect to the complaint by the end of the 90 day period and no such waiver is provided by the complainant, then the Board shall order the matter to be resolved by an alternative dispute resolution mechanism described in Section 150.145.

Section 150.35 Documents Pertaining to Hearings

All documents, including but not limited to complaints, notices and motions, shall be filed with the hearing examiner and a copy shall be served upon the adverse party or its attorney as provided by Section 150.25 or, if agreed to by the parties, facsimile or electronic mail transmission.

Section 150.40 Computation of Time

Computation of the 90 day period of time mandated by Section 150.30(f) shall begin with the first day following the day on which the complaint is filed and shall run until the end of the 90th day, or the next following business day if the 90th day is a Saturday, Sunday or State holiday as defined in Section 1-6 of the Election Code.

Section 150.45 Appearances

The parties to a complaint filed pursuant to this Part may appear on their own behalf or by an attorney at law who is licensed to practice in the State of Illinois. Any person appearing pro se or by an attorney shall file a written notice of appearance with the hearing examiner. The appearance form may be submitted at the beginning of the hearing; however, if no hearing is requested by the complainant, the appearance form shall be submitted to the hearing examiner, pursuant to Section 150.35, within 15 business days after the filing of the complaint.

Section 150.50 Non-Legal Assistance

Any party involved in the complaint proceeding shall have the right to the presence and participation of additional persons in order to provide technical assistance and/or consultation. To maintain order, the hearing examiner may at his discretion restrict the number of additional persons who may attend and participate in the proceedings. The State Board of Elections, including any hearing examiners, shall provide any required assistance to persons with disabilities. Assistance may include, but is not limited to, sign language interpreters, large print or Braille materials and access to the location of any hearings or meetings of the Board.

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Section 150.55 Designation of Parties

If a complete determination of the complaint cannot be had without the presence of other parties, the hearing examiner or the Board may direct them to be brought in. Service of process shall be as provided in Section 150.25 and any subsequent motions and other documents shall be as provided in Section 150.35.

Section 150.60 Answer

Any respondent may file a written answer to a complaint prior to or at the time of any proceeding or hearing, but shall not be required to file an answer. The failure to file an answer shall not be deemed an admission of any allegation in the complaint nor a consent to any requested relief. The answer shall be filed with the hearing examiner and at least one copy shall be served upon all other parties to the proceeding, pursuant to Section 150.35.

Section 150.65 Appointment and Qualifications of Hearing Examiner

Within 5 business days after the filing of a complaint, the General Counsel shall appoint a hearing examiner to hear the complaint who shall be a licensed attorney in the State of Illinois. Written notice of the appointment of the hearing examiner shall be provided to the parties within 5 business days after his or her appointment.

Section 150.70 Authority of Hearing Examiner

The hearing examiner has the authority to conduct and preside over the hearing and is empowered to take all necessary action to avoid delay, to maintain order, to ensure compliance with all requirements contained in this Part, and to ensure the development of a clear and complete record and shall have all powers necessary to conduct a fair and impartial hearing.

Section 150.75 Disqualification of Hearing Examiner

Any party to a hearing may file a written request for disqualification of the hearing examiner, setting forth the nature of the personal bias, prejudice, or other grounds for disqualification. The request shall be made to the General Counsel who will make the decision as to whether the hearing examiner should be disqualified. When a hearing examiner is disqualified, or it becomes impractical for him or her to continue, another hearing examiner shall be appointed in the same manner as provided for the initial appointment. A hearing examiner may at any time voluntarily disqualify himself or herself. A request for disqualification made by a party shall be considered timely if made within 10 business days after the dispatch of the notice of the appointment of the

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hearing examiner and, if received by the General Counsel pursuant to Section 150.35, at least five business days prior to the commencement of the hearing.

Section 150.80 Motions

Unless otherwise directed by the hearing examiner, motions shall be in writing and submitted to the hearing examiner and the adverse party prior to the hearing, pursuant to Section 150.35. Where the Board is conducting a hearing to determine the final disposition of the complaint, motions shall be received as directed by the Board.

Section 150.85 Consolidation and Severance of Claims: Additional Parties

In the interest of convenience and the expeditious and complete determination of claims, the hearing examiner or the Board may consolidate or sever complaints involving any number of parties.

Section 150.90 Amendments

Complaints may be amended under any of the following circumstances:

- a) at the request of the General Counsel following the preliminary review referred to in Section 150.30(a);
- b) to correct any technical defects;
- c) to conform to the evidence presented at the hearing;
- d) to conform to new matters that arise at the hearing if it appears from the original and amended complaint that the cause of action asserted in the amended complaint grew out of the same transaction or occurrence.

Section 150.95 Pre-Hearing Conferences

- a) At the request of the hearing examiner or either party and prior to the hearing, the hearing examiner may direct the parties or their attorneys to appear at a specified time and place for a conference, for the purposes listed in this subsection (a). The purposes for these conferences shall include:
 - 1) the simplification of issues;

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- 2) the necessity or desirability of amending the complaint;
 - 3) the possibility of stipulations of fact;
 - 4) the limitation of the number of witnesses;
 - 5) and other matters that may aid in the simplification of the evidence and disposition of the proceeding.
- b) In exercising discretion, the hearing examiner shall give due consideration to the time requirements of Section 150.30(f).

Section 150.98 Notice of Hearing

The hearing examiner shall provide written notice to the parties not less than 10 business days prior to the hearing. The notice shall include the date, time and location of the hearing and be sent via fax and certified mail with a requested return receipt.

Section 150.100 Settlement Pursuant to Conference

At any time prior to or during the hearing, an opportunity shall be afforded all parties to dispose of the case by written stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order shall be submitted in writing to the Board and shall become effective only if approved by the Board.

Section 150.105 Continuances

A hearing may be continued for good cause by the hearing examiner upon his own motion or upon motion of a party to the hearing after due consideration of any time limitations required by law or by this Part. Notice of any postponement or continuance shall be given to all parties at least 3 business days in advance of the previously scheduled hearing date, pursuant to Section 150.35. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive continuances so that the hearing may be resolved expeditiously. Any undue delay, caused by either party may be grounds for assignment of alternative dispute resolution service costs to that party, pursuant to Section 150.145.

Section 150.110 Failure of Party to Appear

Failure of the respondent to appear on the date set for a hearing shall not deter the hearing from proceeding unless the hearing examiner shall, for good cause, order a continuance. Failure of the

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complainant to appear on the date set for hearing without good cause shown shall be grounds for dismissal of the complaint for want of prosecution.

Section 150.115 Evidence

The hearing is an inquiry to elicit evidence on the question of whether the complaint is sufficiently grounded in fact and law.

- a) Except with respect to matters of privilege, the rules of evidence as applied in civil cases in courts of this State shall not be strictly applied to hearings under this Part. Admissibility of evidence shall be liberally interpreted in order to present all matters that are or may be relevant to the issues affecting the parties. Hearsay evidence shall be admissible if deemed to be reliable and trustworthy by the hearing examiner.
- b) The hearing examiner shall exclude immaterial, irrelevant and repetitious evidence.
- c) A party may conduct direct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matters of the hearing.
- d) Any person offering evidence, written or oral, shall affirm to the hearing examiner that his or her evidence is true to the best of his or her information and belief.
- e) The hearing examiner may admit and rely upon, for his or her recommendation, evidence or information of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- f) Evidence may be submitted in narrative form.

Section 150.120 Official Notice

Notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of any evidence submitted by the parties.

Section 150.125 Subpoenas

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- a) Pursuant to Article 10 of the Illinois Administrative Procedure Act and Section 9-18 of the Election Code, and upon application to the hearing examiner by any party, or upon the request of the hearing examiner, the Board may authorize the General Counsel to issue a subpoena for attendance at the hearing, which may include a command to produce documents or other tangible things designated in the subpoena that are reasonably necessary to resolution of the matter under consideration. The hearing examiner, upon motion, and in any event at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is unreasonable or oppressive.
- b) Every subpoena shall state the title of the action and shall command each person to whom it is directed:
 - 1) to attend and give testimony at the time and place specified; or
 - 2) to produce books, papers, documents or tangible things designated at the time and place specified in the subpoena. The subpoena in this instance may provide that personal attendance is not required.
- c) The party requesting the issuance of a subpoena compelling personal attendance shall tender with the subpoena a check reimbursing the witness for the round trip cost of travel between the witness's place of residence and the place where his or her presence is requested. Reimbursement shall be equal to that provided by the Governor's Travel Board for reimbursement of State employees traveling on official State business.

Section 150.130 Order of Proceeding, Record, Recommendation and Notice

- a) The complainant shall present his or her case first unless the hearing examiner concludes that overall fairness demands a different order or the parties consent to a different order of presentation, approved by the hearing examiner.
- b) At the close of the hearing, the hearing examiner shall summarize his or her conclusions concerning the evidence and information presented and draft a recommendation to the Board addressing the question of whether the complaint is sufficiently grounded in fact and law. The hearing examiner shall include any documents tendered to him or her during the hearing and submit them with the recommendation to the General Counsel for his or her consideration. The General

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Counsel shall then present the recommendation and accompanying documentation to the Board for its final determination.

- c) The official record of a hearing shall consist of the transcript (or tape recording of the proceedings), copies of any motions submitted, documentary evidence, copies of all notices and the recommendation of the hearing examiner and General Counsel.
- d) The State Board of Elections shall provide written notice to the parties not less than seven business days prior to the meeting of the State Board of Elections at which the complaint will be presented for final Board disposition. The notice shall include the time, date and location of the meeting and be sent via fax and certified mail with a requested return receipt.

Section 150.135 Responsibilities of the General Counsel

- a) Upon receipt of a copy of the recommendation of the hearing examiner, the General Counsel shall:
 - 1) Review the recommendation of the hearing examiner, the transcript of the proceedings, and all admitted evidence to determine whether the facts support the recommendation and whether questions of law have been properly applied;
 - 2) Indicate in writing whether he or she concurs with the recommendation of the hearing examiner and, if not, state the reasons for the nonconcurrence; and
 - 3) Transmit his or her remarks and recommendation to the Board within a reasonable time prior to the meeting at which the matter will be addressed by the Board.
- b) If the Chairman of the Board determines that circumstances exist that would make it impossible for the General Counsel to provide a written recommendation to the Board, the recommendation may be given orally. For purposes of making the official record complete, the General Counsel shall, within three business days of giving his oral recommendation, create a written recommendation setting forth the same analysis and reasoning as that contained in the oral recommendation. The written recommendation shall be sent to the parties pursuant to Section 150.35.

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Section 150.140 Board Determination

- a) After the submission of the recommendation of the hearing examiner, the transcript (if requested by the Board), and the recommendation of the General Counsel, the Board shall make a final determination of whether the complaint was sufficiently grounded in fact and law and the determination shall be set forth in the form of a Board Order. If the Board determines that the complaint was sufficiently grounded in fact and law, the Board shall, in its order, take whatever action it is authorized under federal or State law and deems appropriate under the circumstances to correct the matter complained of and shall provide a timeframe in which its order must be complied with and the consequences of failure to comply. If the Board determines that the complaint is not sufficiently grounded in fact and law, and does not allege a violation of Title III of the Act, then the Board shall dismiss the complaint or refer it to the proper agency or department for consideration. Regardless of the Board's disposition of the matter, the Board shall issue a written final order, subject to the Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election.
- b) The Board may consider and discuss the hearing examiner's recommendation through a conference telephone call begun in open session and continued in executive session in lieu of an in-person meeting. The consideration and discussion shall be deemed part of the hearing process. Any action on the hearing examiner's recommendations must be taken in open session, or if taken as part of the telephonic conference call, that portion of the conference call shall be broadcast over a speaker phone or other similar device at the permanent and branch offices of the Board and that portion of the broadcast call shall be open to the media and public.
- c) All final orders shall be posted on the State Board of Elections website. In addition, copies of the orders shall be given to the parties and be made available to the public.

Section 150.145 Alternative Dispute Resolution

If the State Board of Elections fails to resolve the complaint within 90 days after its filing, or the parties refuse to waive the 90 day deadline, the Board shall select a person, company or association providing dispute resolution services ("the service provider") to resolve the matter. If the parties object to the Board's selection, they shall be provided an opportunity to select a service provider and their selection shall then be presented to the Board. The Board shall select the service provider in consultation with the parties. If the Board and the parties fail to agree on

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the choice of the service provider, the names of the selections shall be placed in a container and the service provider shall be determined by lot, drawn by the Chairman of the Board. If the complainant names the Board as a respondent and does not waive his or her right to alternative dispute resolution pursuant to Section 150.30 and the choice of service provider cannot be mutually agreed upon, the Board and the complainant shall select a service provider whose name shall be placed in a container and determined by lot, drawn by the complainant. In all circumstances, the service provider shall have at least two years experience in providing mediation services in Illinois. Pursuant to Section 402 (a)(I) of HAVA, the matter shall be resolved within 60 days after its referral and this time limitation shall be included in any contract for the provision of alternative dispute resolution services. Costs of the service shall be borne by the Board. The record from any hearing conducted within this Part shall be made available for use by the service provider to have costs of the services shifted to either party. The decision of the service provider shall be subject to judicial review. The Board may petition the service provider to have the costs of the services shifted to either party. The petition shall set forth facts warranting the shifting of costs and must show at a minimum that the Board was not properly named as respondent, a determination was made by the service provider that the complaint was completely lacking any basis in fact or law, or unreasonable delay caused by the party resulted in the matter not being resolved by the Board within the original 90-day time period.

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- 1) Heading of the Part: Approval of Voting Systems
- 2) Code Citation: 26 Ill. Adm. Code 204
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
204.10	Amend
204.20	Amend
204.30	Amend
204.40	Amend
204.50	Amend
204.55	New
204.60	Amend
204.70	Amend
204.75	New
204.80	Amend
204.90	Amend
204.100	Amend
204.110	Amend
204.120	Amend
204.130	Amend
204.140	Amend
204.150	Repeal
204.160	Amend
204.170	Amend
- 4) Statutory Authority: Implements Articles 23-15.1, 24A, 24B and 24C of the Illinois Election Code [10 ILCS 5/23-15.1, 5/24A, 5/24B and 5/24C] and authorized by Article 1A, Section 8(9) and Article 23-15.1 of the Illinois Election Code [10 ILCS 5/1A-8(9) and 23-15.1]
- 5) Effective Date of Rulemaking: August 25, 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: 28 Ill. Reg. 13287; October 8, 2004

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- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In addition to non-substantive, technical changes, the following changes were made in agreement between the proposal and final version.
- In Section 204.50(b), changed "204.20" to "204.10".
- In Section 204.55(a), changed "within 90 days after the effective date of this Section" to "by December 1, 2005".
- In Section 204.55(d), new language was added for subsection (d) that reads:
- d) Representatives of the voting system and vendors providing the Computer Code in question shall have access to the logs described in this subsection (c)(3) provided that the representatives make prior arrangements with the SBE in consideration of mutual convenience.
- All language and subsections following (d) were relabeled accordingly.
- In Section 204.55(e), added "Any authorized recipients of the Computer Code must enter into a non disclosure agreement with the SBE. The SBE will provide the agreement to all authorized voting system vendors upon receipt of the code." to the end of the subsection.
- In Section 204.140(b), strike "of the" after "~~10%~~".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Board is required to periodically review and verify that all voting systems' computer codes used in Illinois elections are currently on file with the State Board of Elections. The Board is repealing an element of Section 204.140, Monitoring of Voting System, because the 10% limit on the number of precincts subject to a special test is no longer a statutory requirement. The Board is also

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repealing Section 204.150. Other grammatical changes and slight revisions have been made to amend and adopt this Part.

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

State Board of Elections
Steven S. Sandvoss, Deputy General Counsel
1020 S. Spring St.
Springfield IL 62708

217-557-9939

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

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 204

APPROVAL OF VOTING SYSTEMS

Section

204.10	General Provisions
204.20	Definitions
204.30	Jurisdiction Profile
204.40	Criteria for Approval of Voting Systems
204.50	Application for Approval of Voting Systems
204.55	<u>Provision of the Voting System Computer Code</u>
204.60	Preliminary Determination and Review of the Proposed Voting Systems
204.70	Full Review Procedures
204.75	<u>Review and Verification of Computer Code</u>
204.80	Hearing to Consider Staff Review Report
204.90	Interim Approval of Voting Systems
204.100	Final Approval of Voting Systems
204.110	Refusal to Grant Approval of Voting Systems
204.120	Withdrawal of Approval of Voting Systems
204.130	Subsequent Modification of Voting Systems
204.140	Monitoring of Voting Systems
204.150	Voting Systems in Use on the Effective Date of <u>this Part</u> These Rules <u>(Repealed)</u>
204.160	Emergency Approval of a Voting System
204.170	Jurisdiction of Election Authority over Voting System's Personnel
204.180	Number of Voting Booths

AUTHORITY: Implementing Section 23-15.1 and Articles 24A, 24B and 24C, and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/23-15.1, Art. 24A, Art. 24B, Art. 24C, 1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; codified at 6 Ill. Reg. 7216; amended at 9 Ill. Reg. 10733, effective July 1, 1985; amended at 11 Ill. Reg. 18655, effective October 30, 1987; amended at 15 Ill. Reg. 18144, effective December 9, 1991; amended at 23 Ill. Reg. 3943, effective March 19, 1999; amended at 29 Ill. Reg. _____, effective August 25, 2005.

Section 204.10 General Provisions

| Pursuant to Sections 24A-16 and 24A-17 of the~~The~~ Election Code [10 ILCS 5/24A-16 and 24A-

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~~17], (Ill. Rev. Stat. 1983, ch. 46, pars. 24-1 et seq.)~~ no voting system shall be used in this State unless approved for use by the State Board of Elections in accordance with this Part.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.20 Definitions

"Applicant" is any individual, public official, public body, trust, partnership, committee, association, corporation, vendor, user or any other organization or group of persons seeking to use or market any voting system or voting system component.

"Computer Code" consists of, but is not limited to, ballot counting source code, table structures, modules (compiled source code), program narratives, installation instructions, operations instructions, data flows, deployment platforms, compatibility considerations for hardware, software and firmware, and any other documentation relevant to the structure and operation of the ballot counting system.

"Preliminary Review" shall consist of a full technical and procedural review of the proposed voting system component and of no more than three ~~(3)~~ different and separate preaudited ballot counting tests created by the Board's staff. The purpose of ~~thesuch~~ review and testing is to determine the proposed system's ability to adhere to ballot management procedures required by statute and rule and to tabulate ballots and report results as prescribed by the Election Code ~~[10 ILCS 5], Ill. Rev. Stat. 1989, ch. 46, pars. 1-1, et seq.~~

"User" is any individual, public official, public body, trust, partnership, committee, association, corporation or any other organization or group of persons owning, using, or contracting for the purchase or use of any voting system or voting system ~~component~~component(s) involved in the election process.

"Vendor" is any individual, trust, partnership, committee, association, corporation or any other organization or group of persons contracting to supply any voting system or voting system ~~component~~component(s) involved in the election process.

"Voting System" or "Electronic Voting System" means that combination of equipment and programs used in the casting, examination and tabulation of ballots and the cumulation and reporting of results by electronic means.

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(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.30 Jurisdiction Profile

The Board shall develop and maintain for each election jurisdiction a jurisdiction profile ~~that~~which will be used to assess a voting system's capability to be utilized and maintained in the proposed election jurisdiction. The profile shall consist of information such as:

- a) Demographic characteristics ~~that~~which shall specify at a minimum the population size, densities, and characteristics.
- b) Jurisdiction characteristics ~~that~~which shall specify at a minimum the number of registered voters; geographical size; computer facilities; availability of support functions; polling place locations and facilities; number of precincts; registered voters per precinct; average voter turnout; a record of voting system performance for each election; ratio of voters to machines/devices; type of tabulation activity; ballot size; complexity; and configurations; number of qualified parties; number of primaries; number of elections per year; turnaround time between elections; and ballot rotation sequence difference.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.40 Criteria for Approval of Voting Systems

- a) A full review of each voting system shall be conducted to ensure that no voting system shall be approved unless it fulfills the following requirements as set forth in Section 24A-16 of the Election Code:
 - 1) *It enables a voter to vote in absolute secrecy;*
 - ~~2) *It enables a voter to vote a straight party ticket;*~~
 - ~~2)3) *It enables a voter to vote a ticket selected in part from the nominees of one party, and in part from the nominees of any or all parties, and in part from independent candidates and in part of candidates whose names are written in by the voter;*~~
 - ~~3)4) *It enables a voter to vote a written or printed ticket of his own selection for any person for any office for whom he may desire to vote;*~~

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~~4)5)~~ *It will reject all votes for an office or upon a proposition when the voter has cast more votes for such office or upon such proposition than he is entitled to cast;*

~~5)6)~~ *It will accommodate all propositions to be submitted to the voters in the form provided by law or, where no ~~such~~ form is provided, then in brief form, not to exceed 75 words.*

~~7)~~ ~~Not later than July 1, 1999, it will be modified if necessary so that it will not fail to operate and will operate correctly on and after January 1, 2000.~~

b) Any review of a voting system shall consist of an evaluation of the characteristics of the system in order to determine what set of characteristics are needed to enable the system to fulfill the requirements set forth in subsection (a) ~~above~~, such as:

- 1) Physical characteristics, including design, engineering, materials and ability to communicate;
- 2) Software performance, including, to the maximum extent possible, a review of application programs, audit trails of overvotes and undervotes, duplicate programs, object code, source code, support software, data integrity, media security, and multi-programming;
- 3) Ballot and voting characteristics, such as the capacity of the ballot to contain multiple configurations;
- 4) Ballot processing characteristics, including the preparation, accurate tabulation for both primary and general election ballots and transportation of ballots;
- 5) Function and service characteristics, including the interaction and relationship, if any, of non-election related system functions with election related functions;
- 6) Human performance standards, such as extent of training and degree of manual dexterity needed;
- 7) Management standards, including setup, maintenance and security

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procedures.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.50 Application for Approval of Voting Systems

- a) In order to obtain Board approval of a voting system, a written application must be made to the Board. The application shall, at a minimum, contain the following:
- 1) A general description of the proposed system.
 - 2) The description, nomenclature, specifications and intended use or uses of all voting system components comprising the proposed voting system.
 - 3) A description of all contemplated and possible uses of the voting system software components.
 - 4) A description of support services provided for the proposed voting system.
 - 5) Applicant's primary address, telephone number ~~and~~, e-mail address and the names, addresses, e-mail addresses and telephone numbers~~name(s)~~ of individuals~~individual(s)~~ and/or corporation~~corporation(s)~~, their address(es) ~~and telephone number(s)~~, who will be responsible for marketing the proposed voting system.
 - 6) The time period in which the applicant~~Applicant~~ has actively engaged in marketing the proposed voting system.
 - 7) A complete list of election jurisdictions currently using the proposed voting system, including the size of the jurisdiction and the names and addresses of the election authorities.
 - 8) A complete list of jurisdictions currently contracting with the applicant~~Applicant~~ for voting system components.
 - 9) A complete list of election jurisdictions in Illinois in which the applicant~~Applicant~~ is seeking to market the proposed voting system.
 - 10) If known, a complete list of election jurisdictions in Illinois in which the

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~~applicant~~ Applicant proposes to experimentally use the proposed voting system.

- b) The Computer Code as defined in Section 204.20 shall be submitted as part of the completed application for approval.
- c)b) No vendor or user shall offer to sell, lease, loan, give or otherwise supply to any user or potential user any voting system or voting system component, and no user shall place in operation any voting system or voting system component, without first submitting to the Illinois State Board of Elections the application for approval identified in subsection (a) ~~of this Section~~. ~~A Such~~ completed application for approval shall be submitted not less than six ~~(6)~~ months prior to any election in which ~~asuch~~ voting system or support component is proposed for use.
- d)e) Failure to provide ~~thesuch~~ application ~~as this rule requires~~ in accordance with subsection (b) ~~hereof~~ shall result in the denial of any application or request for emergency approval of ~~ansuch~~ electronic voting system ~~thatwhich~~ might otherwise be appropriate under Section 204.160 of this Part.
- e)d) The reasonable expenses incurred, except those expenses related to escrow of submitted Computer Code, by the State Board of Elections in conducting the approval process of the voting system shall be borne by the applicant for approval of the voting system or system component. Expenses for which the applicant shall be liable shall be limited to goods and materials necessary for the review process, necessary travel in accord with ~~Statestate~~ travel regulations (80 Ill. Adm. Code 2800), use of contract consultants, and the actual cost of any computer support. ~~ExpensesSuch expenses~~ shall be documented and submitted to the applicant at the end of full review prior to interim approval as defined in Section 204.90, and within ~~ten~~ 10 days after the completion of any testing conducted between interim and final approval as defined in Section 204.100. Payment of ~~thesaid~~ costs shall be made by the applicant within 10 ~~ten~~ days ~~after~~ receipt. The Board shall not grant interim approval or full approval of a voting system or system component until the applicant has fully satisfied the monetary obligation incurred by the Board during the review process. Reasonable expenses are those customary and usual charges for goods and services of value and quality acceptable in the computer science industry. Board staff shall determine in the first instance what expenses are reasonable, and an applicant who believes that the staff determination is incorrect may ask for review of the determination by the State ~~whole~~ Board of Elections ~~itself~~.

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(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.55 Provision of the Voting System Computer Code

- a) All voting system vendors, whether currently providing an election authority with a voting system already approved by the State Board of Elections, submitting an application for approval of a voting system for the first time, or submitting for approval a modification, update or change in an existing voting system, shall provide to the Board the Computer Code associated with the voting system, to be placed in escrow with the Board. Failure to submit the code by December 1, 2005 or as part of an application for approval shall be cause for withdrawal of the approval subject to Section 204.120 or for rejection of the application for failure to submit a completed application for approval.
- b) The Computer Code shall be placed in a safety deposit box located at a secure facility chosen by the State Board of Elections, with access limited to designated staff of the State Board of Elections and those persons specifically authorized by Section 23-15.1 of the Election Code to have access to the code in conjunction with the proceedings of an election contest. The safety deposit box shall at all times contain a log of its current contents. This log shall be a printed copy of an electronic document on file at the State Board of Elections. Access to this document shall be limited to designated staff of the State Board of Elections.
- c) To maintain a chain of custody for the Computer Code, a log shall be maintained by the State Board of Elections tracking the whereabouts, handling and movement of any kind of the medium containing the code from the moment it comes into possession of the State Board of Elections until its return to the vendor who submitted it.
 - 1) The log for the Computer Code shall include but not be limited to the following:
 - A) The name of the vendor submitting the code;
 - B) the name of the voting system containing the code;
 - C) whether the submission is for an approved or existing system, a proposed system or a modification of an existing system (if it is a

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- modification of an existing system, the reason for the modification, along with the new version number, shall also be included);
- D) the date the code was received, opened and examined by the designated State Board of Elections staff member, along with that staff member's name;
- E) the date and initials of the designated staff person who delivered the medium to the safety deposit box; and
- F) the date the old version of the Computer Code (if a newer source code is provided) was returned to the vendor.
- 2) The log shall also list any problems with the Computer Code medium, including but not limited to any non-compliant or unreadable media, along with the date that the medium was returned to the vendor.
- 3) A separate log shall be created in the event that a Computer Code is required to be copied and delivered to a judge or tribunal overseeing an election contest in which the Computer Code is a subject of the contest. This separate log shall indicate:
- A) the date the code was requested and provided;
- B) to whom it was provided;
- C) the jurisdiction in which the voting system was used;
- D) the election that was contested;
- E) the name of the judge or tribunal presiding over the case, along with the venue and docket or case number;
- F) the date of the order;
- G) the date of the return of the Computer Code to the State Board of Elections; and
- H) the designated staff persons who were responsible for the copying, delivery and receipt of the affected Computer Code medium.

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- d) Representatives of the voting system and vendors providing the Computer Code in question shall have access to the logs described in this subsection (c)(3) provided that the representatives make prior arrangements with the SBE in consideration of mutual convenience.
- e) In the proceedings of an election contest, access to a vendor's Computer Code is limited to the particular code being used by the voting systems actually utilized in the election being contested and will only be released pursuant to an order of a judge or tribunal hearing the contest. In the event that an order is issued to provide the Computer Code, written notice will be given to the vendor as soon as practicable, but in no case shall it be given less than two business days from the date of receipt of the order by the State Board of Elections. Any authorized recipients of the Computer Code must enter into a nondisclosure agreement with the Board. The Board will provide the agreement to all authorized voting system vendors upon receipt of the code.
- f) All Computer Code shall be provided in a medium chosen by the State Board of Elections and shall not be password protected. The Computer Code provided by each vendor shall be accompanied by a list describing what is being provided and, if necessary, instructions detailing the proper method for its reproduction. The list shall include the file names, file types, and file versions, a brief file description, and a reference to the corresponding object or Computer Code files. The vendor shall provide to the Board, at least 60 days prior to an election, a list of the names of all the Illinois election authorities who are using the approved Computer Code and, if more than one is being used in a jurisdiction, the versions being used. The lists required by this subsection shall be updated and submitted to the Board, upon any changes in the users or changes to the Computer Code, within 10 business days after the change, but in no case less than 5 days prior to an election. The Computer Code shall at no time be copied, reproduced, published, divulged or publicly disseminated in any way by the State Board of Elections unless a judge or tribunal overseeing an election contest orders its production.
- g) Any staff member of the State Board of Elections who intends to handle or otherwise have access to a vendor's Computer Code required to be provided by Section 23-15.1 of the Election Code must be so designated by the Executive Director of the State Board of Elections.
- h) Return of Escrowed Computer Code to Vendor

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- 1) The State Board of Elections shall return all escrowed Computer Code to the vendor when:
 - A) the Board refuses to grant approval subject to Section 204.110 of this Part; or
 - B) the Board withdraws approval subject to Section 204.120 of this Part and at least 23 months have elapsed since the last election in which the Computer Code was used to tabulate ballots in the State, if no election contest is pending involving the code.
- 2) To insure the receipt of the returned escrowed Computer Code by the vendor, the State Board of Elections shall place the code in a suitable envelope or other appropriate container and send it to the vendor by registered mail, return receipt requested. If the code is returned to the State Board of Elections as non-deliverable, or the return of the code to the vendor is otherwise unable to be accomplished, it shall be destroyed by the State Board of Elections in a suitable manner.

(Source: Added at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.60 Preliminary Determination and Review of the Proposed Voting Systems

- a) Upon the Board's receipt of a completed application requesting approval of a voting system, a preliminary determination shall be made as to whether the proposed voting system has the capability of fulfilling the criteria prescribed in Section 204.40 of this Part.
- b) If the preliminary determination indicates that the proposed voting system appears to fulfill the criteria prescribed in Section 204.40 of this Part, then the staff of the Board will conduct a preliminary review of the proposed voting system.
- c) Insofar as practical, the preliminary review of the proposed voting system will consist of the creation of a ~~pre-audited~~~~preaudited~~ ballot counting test by the Board's staff ~~that which~~ will be delivered to the ~~applicant~~~~Applicant~~. ~~The Thereupon, the applicant~~ ~~Applicant~~ shall tabulate the ballots contained within the ~~pre-audited~~~~preaudited~~ ballot counting test and generate, at a minimum, individual precinct result total reports and cumulative result total reports which, along with the ~~pre-audited~~~~preaudited~~ ballot counting test, will be delivered to the Board. The Board's staff shall review the reports submitted by the ~~applicant~~

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~~Applicant~~ and submit a preliminary review findings and conclusions report to the Board and the ~~applicant~~ ~~Applicant~~.

- d) If the preliminary review report indicates that the proposed voting system appears to demonstrate the capability to fulfill the criteria prescribed in Section 204.40 ~~of this Part~~, ~~then~~ the staff of the Board shall continue with the full review process to demonstrate satisfactory performance of ~~such system of~~ the proposed voting system as prescribed in Section 204.70 ~~of this Part~~. A system fails preliminary review when it fails to fulfill the criteria of Section 204.40 ~~of this Part~~ by the conclusion of the third ballot counting test.
- e) If the preliminary review report indicates that the proposed system fails to demonstrate the capability to fulfill the criteria prescribed in Section 204.40 ~~of this Part~~, ~~then~~ the staff of the Board shall cease any further review of the system. Any application for system approval offered by an applicant who has previously failed during the preliminary review or full review process shall not be considered by staff for a period of one ~~(1)~~ year from the date of ~~such~~ determination by the Board.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.70 Full Review Procedures

- a) Board staff shall, after giving written notice, make an on-site inspection to review production and testing of equipment and to interview personnel involved in the development of the proposed voting system.
- b) Board staff shall prepare and perform a test of the proposed voting system to determine whether ~~thesuch~~ system fulfills the criteria and requirements of Section 204.40 ~~of this Part~~. ~~TheSuch a~~ test shall be conducted under conditions ~~thatwhich~~, to the maximum extent possible, ~~shall~~ simulate election-day conditions.
- c) Board staff shall prepare a profile showing:
- 1) The past performance experience and reliability of the proposed voting system as demonstrated in other election jurisdictions;
 - 2) The reputation of the vendor's reliability in performing service and maintenance agreements.

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- d) Board staff shall prepare and submit a report to the Board stating the findings and conclusions of their review of the proposed voting system. A copy of ~~thesueh~~ report shall be transmitted to the ~~applicant~~~~Applicant~~.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.75 Review and Verification of Computer Code

The State Board of Elections shall conduct a review in each jurisdiction in which it conducts a test of the vote counting equipment pursuant to Section 207.40 to verify that the Computer Code being utilized by the voting system in that jurisdiction is consistent with the most recent Computer Code submitted by the vendor for use in that jurisdiction. A written record of the review shall be produced and maintained by the State Board of Elections for a period of 2 years following the review.

(Source: Added at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.80 Hearing to Consider Staff Review Report

- a) The Board shall conduct a hearing to consider the staff's review report.
- b) The ~~applicant~~~~Applicant~~ shall be given 21 days written notice of the date, time and location of ~~thesueh~~ hearing.
- c) The Board shall provide the ~~applicant~~~~Applicant~~ the opportunity to attend ~~thesueh~~ hearing and present any additional evidence or material ~~relevant to~~~~pursuant to~~ the staff review report ~~that~~~~which~~ would assist the Board in making a preliminary determination, on the basis of the staff review report, as to whether to approve the proposed voting system.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.90 Interim Approval of Voting Systems

- a) If the Board, based upon the staff review report or any additional data submitted to it by the applicant pursuant to Section 204.80(c), preliminarily determines that the proposed voting system demonstrates the capability to fulfill all of the requirements ~~as~~ set forth in Sections 24A-16 of the Election Code, and Section 204.40(a) of this Part, the Board shall approve the use of the system on an interim

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basis. ~~Approval~~~~Such approval~~ shall limit the use of the system to specific election jurisdictions or precincts, to specific elections, and to specific procedural functions if the Board determines the limitation to be necessary due to inability of the applicant to furnish system components and/or the ability of the system to address characteristics of the particular elections.

- b) Any interim approval granted by the Board shall be for a period not to exceed 2 years.
- c) During the interim approval period, the Board staff shall monitor the performance of the proposed voting system and shall, at the expiration of the interim approval period, submit a written report to the Board indicating ~~staff's~~~~their~~ findings, conclusions, and final recommendations.
- d) Within ~~thirty (30)~~ days following the expiration of the interim approval period, the ~~applicant~~~~Applicant~~ shall submit to the Board a written request for final approval of the proposed voting system. The ~~applicant~~~~Applicant~~ shall also submit at the same time its own report identifying what problems, if any, were encountered by the proposed voting system during the interim approval period.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.100 Final Approval of Voting Systems

- a) The Board, on the basis of the application on file before it, the findings, conclusions and recommendations of the staff, any reports or additional documentation submitted by the ~~applicant~~~~Applicant~~, and ~~on~~ the demonstrated performance of the proposed voting system during the interim approval period, shall make its determination whether to grant final approval of the proposed voting system for use in one or more election jurisdictions in Illinois.
- b) The Board's final approval shall specify, at a minimum, the following:
 - 1) The description, nomenclature, specifications and intended use or uses of all voting system components used in the proposed voting system.
 - 2) Identification, size, and nature of the type of election jurisdiction where the proposed voting system may be employed.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

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Section 204.110 Refusal to Grant Approval of Voting Systems

Whenever the ~~applicant~~Applicant fails to demonstrate, ~~either~~ after the preliminary determination, the preliminary review or the full review, that the proposed voting system has the capability to fulfill the criteria prescribed in Section 204.40 ~~of this Part~~, the Board shall notify the ~~applicant~~Applicant in writing that the Board will not grant approval of the proposed voting system and that the application is denied. ~~Denial~~Such denial of the application shall prevent the ~~applicant~~Applicant from submitting a new application for approval of the same voting system or system component to the Board within one year from the date of the Board's decision.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.120 Withdrawal of Approval of Voting Systems

- a) If, at any time subsequent to the Board's approval or interim approval of a voting system, the Board determines that the approved voting system fails to fulfill the criteria prescribed in Section 204.40 ~~of this Part~~, or the vendor failed to submit or use the proper Computer Code or the Computer Code has not been used for at least 23 months to tabulate ballots in an election, the Board shall notify any users or vendors of that particular voting system that the Board's approval of that system is to be withdrawn. ~~The~~Such notice shall be in writing, shall specify the reasons why approval of the system is being withdrawn, and shall specify the date on which the withdrawal is to become effective.
- b) Any vendor or user of ~~asuch~~ voting system may request, in writing, that the Board reconsider its decision to withdraw approval of the voting system. Upon receipt of ~~such~~ a request, the Board shall hold a public hearing for the purpose of reconsidering the decision to withdraw approval and any interested person shall be given an opportunity to make a presentation either in support of or in opposition to the Board's decision.
- c) The Board shall, on the basis of the record before it, either affirm or reverse its decision to withdraw approval. In the alternative, the Board may also order that the voting system be given further review by the Board's staff in accordance with this Part and also, if appropriate, order that the voting system be subject to interim approval as determined by the Board.
- d) ~~Prior to July 1, 1999, vendors or users shall provide the Board with a certificate that each electronic voting system which it then supplies for use in Illinois meets~~

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~~the requirements of Section 204.40(a) of this Part. After July 1, 1999, the Board will send the notice specified by subsection (a) of this Section to vendors and users of all electronic voting systems for which such a certificate has not been received by July 1, 1999.~~

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.130 Subsequent Modification of Voting Systems

Any modification or change in the description, nomenclature, specifications, characteristics or use of any voting system components ~~that relates, which relate~~ to the election process, shall constitute a change in the approved voting system and shall require submission and approval of an application, as prescribed in Section 204.50, for approval and submission of the Computer Code for the modification or change ~~as prescribed in Section 204.50 of this Part~~. However, modifications or changes that normally occur as a result of the election process, which shall include but not be limited to object code programming, instruction manual revisions, and ballot printing, shall not constitute a modification or change in the approved system.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.140 Monitoring of Voting Systems

- a) The staff of the Board shall have the authority and responsibility to test and monitor the use of approved voting systems to ensure that the system is operating according to specifications. Monitoring~~Such monitoring~~ shall be conducted at times when the voting system is normally engaged by the election authority.
- b) The State Board of Elections may select, on a rotation basis, ~~not more than 10% of the~~ election jurisdictions in which to order a special test of the automatic tabulating equipment and program prior to any regular election. In addition, provided, that the Board may order a special test in any election jurisdiction where, during the preceding ~~12~~twelve months, computer programming errors or other errors in the use of electronic voting systems resulted in vote tabulation errors. Not more than 35 days nor less than 30 days prior to any election, the State Board of Elections shall provide written notice of intent to conduct a test. ~~The, the~~ selected jurisdictions shall forward to the principal office of the State Board of Elections a copy of all specimen ballots. The ~~Board's State Board of Elections'~~ tests shall be conducted and completed not less than 2 days prior to the public test. The Board will provide utilizing testing materials, will supervise the test, and will cover supplied by the Board and under the supervision

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~~of the Board, and the~~ reasonable ~~cost~~ of computer time required to conduct the special test.

- c) Testing may be conducted at other times upon the request of the Board and with the agreement of the election authority.
- d) Each election authority shall send to the State Board of Elections written notice of the type of voting system it will use for any regular or special election. ~~The Such~~ notice shall be on a form prescribed and supplied by the Board and shall include, but not be limited to, the hardware components and respective serial numbers, software vendors, hardware vendors, ballot card/sheet vendor, ballot card type, staff personnel authorized to operate ~~the~~ system, location where system shall operate, and backup support procedures if the system fails. The notice ~~must shall~~ ~~be sent so as to~~ arrive at the Board at least 45 days prior to any regular or special election. The Board shall supply the election authorities with sufficient copies of the notice form.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.150 Voting Systems in Use on the Effective Date of this Part (Repealed)

- a) ~~All voting systems in use in this State as of the effective date of this Part shall be deemed approved for use pending submission of an application for approval within 120 days of the effective date of this Part and the Board determination thereon.~~
- b) ~~Any application for approval submitted to be Board pursuant to paragraph (a) above shall be given expedited consideration by the Board and its staff. For the purpose of reviewing such application, the Board and its staff need not conduct the preliminary review as provided for by Section 204.60 of this Part nor the simulated test as provided for by Section 204.70 of this Part, nor shall the Board apply the provisions of Section 204.90 for interim approval, provided, however, that the proposed system has been shown to have demonstrated successful use in at least one previous election in terms of the criteria indicated in Section 204.40(a).~~
- e) ~~Any voting system in use in this State as of the effective date of these rules for which an application for approval has not been submitted on or before the 120th day following the effective date of these rules shall no longer be approved for use in this State.~~

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(Source: Repealed at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.160 Emergency Approval of a Voting System

- a) The Board shall have the authority₂ upon written request₂ to grant emergency approval of a voting system ~~which shall be~~ limited to one election. ~~The Such~~ emergency approval shall specify₂ at a minimum, the following:
- 1) The reason for ~~thesuch~~ emergency approval;
 - 2) The description of the voting system prepared for use in the emergency; and
 - 3) The specific election jurisdiction and specific election in ~~thatwhich~~ the voting system will be employed.
- b) The Board shall approve the application for emergency approval if the following conditions are met:
- 1) Error-free completion of a staff-prepared ballot tabulation test ~~that which~~ demonstrates ~~that~~ the system fulfills the provisions of Section 204.40(a);
 - 2) Demonstration that an approved system is not available for use in the election in question; and
 - 3) Demonstration that the requirements specified in Section 204.100(c)(1), (2), and (3) ~~of this Rule~~ have, to the maximum extent possible, been complied with in connection with this emergency approval.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

Section 204.170 Jurisdiction of Election Authority over Voting System's Personnel

All persons, including programmers, systems analysts and machine operators, engaged in the counting of the ballots or in the planning for usage of tabulating or electronic equipment₂; shall be deputized by, and under the jurisdiction of, the county clerk or board of election commissioners, as the case may be.

(Source: Amended at 29 Ill. Reg. _____, effective August 25, 2005)

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- 1) Heading of the Part: Personnel
- 2) Code Citation: 26 Ill. Adm. Code 212
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
212.210	New
212.214	New
212.218	New
212.222	New
212.226	New
212.230	New
212.234	New
212.238	New
212.242	New
212.246	New
212.250	New
212.254	New
212.258	New
212.262	New
212.266	New
212.270	New
212.274	New
212.278	New
212.282	New
212.286	New
212.290	New
212.294	New
212.298	New
212.299	New
- 4) Statutory Authority: Authorized by Article 1A-12 of the Illinois Election Code [10 ILCS 5/1A-12].
- 5) Effective Date of Rulemaking: August 25, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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- 8) A copy of the adopted rules, 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: 29 Ill. Reg. 5181; April 15, 2005
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In addition to non-substantive, technical changes, the following changes were made in between the proposal and final version.
- In the AUTHORITY, the last entry was changed from "amended at" to "adopted at".
- In Section 212.210(b), added a new definition "Allocation".
- In Section 212.210(b), added a new definition "Board".
- In Section 212.210(b), added a new definition "Disclosure Statement".
- In Section 212.210(b), in the definition "Executive Employee", added "of the Board" after "Assistant Executive Director".
- In Section 212.210(b), in the definition "Organizational Unit", added "Board's" before "organizational".
- In Section 212.218(a)(4)(B), the language was revised to read: " Pre-employment screening of applicants may include, but is not limited to, background checks and routine reference verifications."
- In Section 212.218(b)(1), added "Notice of Appointment:" before "Upon".
- In Section 212.218(b)(2)(C), added "supplying the worker" after "agency".
- In Section 212.222(e)(1), added "(or his designee)" after "Director".
- In Section 212.230(b)(1) and (b)(2), changed "thereof" to "of the probationary period".
- In Section 212.246(d), on the second and eighth lines, changed "thereof" to "of the demotion".

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In Section 212.250(a)(2), added "prepared by the Director of Administrative Services" after "plan".

In Section 212.258(a), changed "thereof" to "of the resignation" on the last line.

In Section 212.262(b)(2)(C) and (D), the language was revised to read:

- C) The Executive Director and Director of Administrative Services shall review all Disclosure Statements. If a potential conflict of interest is found, the statements shall be submitted to the Board for review and response.
- D) Each employee shall file a Disclosure Statement with the Division of Administrative Services immediately upon employment and shall re-file statements by May 1 annually thereafter indicating all involvements or relationships that could affect the employee's performance of his or her official duties. Employees shall be under a continuing duty to advise the Director of Administrative Services or his or her designee promptly in writing of any change that would affect an answer given on their current Disclosure Statements or that might affect the objective or efficient performance of their duties.

In Section 212.262(b)(2)(E), changed "Division" to "Department" on the last line.

In Section 212.262(d)(1), added ", such as confidential information obtained during the course of employment with the Office, such as information contained in the record of a closed preliminary hearing" after "agency".

In Section 212.262(d)(2), added "or any outside source" after "co-worker".

In Section 212.262(d)(3), added " or involving the entity itself" after "agency".

In Section 212.270(a), changed "condition of" to "condition or" after "employment".

In Section 212.270(f)(4), added "to writing" after "reduced" and added "in writing" after "decision".

In Section 212.270(f)(4) and (f)(5), added "Review" between "Grievance" and "Committee".

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In Section 212.274(d)(4), changed "proved" to "provided" after "restored".

In Section 212.282(c), deleted "and not used" after "accumulated".

In Section 212.286(a)(3)(A), changed "lease" to "least" after "at" and added "federal" before "Family".

In Section 212.286(a)(6)(C), added " Federal or" before "State" throughout subsection.

In Section 212.286(a)(6)(C), added "the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301)" after "[20 ILCS 1805/Art. V] or".

In Section 212.290(a)(1) through (13), revised the language to read:

- a) Authorized Holidays: All full-time employees shall have time off, with full salary payment, on the day designated as a holiday for the following:
 - 1) New Year's Day
 - 2) Martin Luther King Day
 - 3) Lincoln's Birthday
 - 4) Washington's Birthday (President's Day)
 - 5) Memorial Day
 - 6) Independence Day
 - 7) Labor Day
 - 8) Columbus Day
 - 9) Veteran's Day
 - 10) Thanksgiving
 - 11) Christmas Day
 - 12) General Election Day (on which members of the House of Representatives are elected). Employees required to work on General Election Day shall be granted equivalent time off in the following 12-month period at a time convenient to the employee and consistent with the Office's operating needs. Temporary employees shall not be compensated for non-working days or holidays.
 - 13) Any additional days proclaimed by the Governor of the State of Illinois or the President of the United States.

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

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These adopted rules establish the personnel procedures of the State Board of Elections. These procedures include the classification and compensation of the various positions within the agency, work schedule and employee attendance, personnel records and performance reviews, promotions, transfers and demotions, layoffs, resignations and reinstatements. This Part establishes disciplinary procedures for violations of proper employee conduct, including suspension and termination. The adopted rules also include a step-by-step grievance procedure. Policies regarding sick, vacation, personal and compensatory time off are provided for as well.
- 16) Information and questions regarding these adopted rules shall be directed to:

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939

The full text of the Adopted Rules begins on the next page.

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 212: PERSONNEL

Section	
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212.214	Position Classification and Compensation
212.218	Application and Appointment
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212.234	Probationary Status
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212.290	Holidays
212.294	Overtime
212.298	Interpretation and Application of Rules
212.299	Savings Clause

AUTHORITY: Implementing Section 1A-12 of the Illinois Election Code [10 ILCS 5/1A-12] and authorized by Section 1A-8(9) of the Illinois Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 5534, effective March 31, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 13754, effective August 25, 2005.

Section 212.210 Introduction

- a) General

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- 1) **Subject**
This Part establishes the basic policies governing the personnel in the Office of the State Board of Elections.
- 2) **Equal Employment**
The Office of the State Board of Elections does not discriminate with respect to recruitment, hiring, promotion, renewal of employment, discharge, discipline, demotion, privileges or conditions of employment against any individual on any unlawful basis, including race, color, religion, sex, sexual orientation, age, marital status, physical or mental disability, national origin, citizenship, political affiliation, ancestry, military status or unfavorable discharge from military service.
- 3) **Scope**
All payroll employees of the Office of the State Board of Elections are subject to the provisions of this Part.

b) **Definitions**

"Allocation" means the distribution of duties within a job classification.

"Board" means the State Board of Elections created by the Illinois Constitution.

"Certified Employee" means an employee who has satisfactorily completed a required period of probation and attained certified status in any position during the employee's most recent period of continuous service with the Office.

"Certified Status" means status achieved through the successful completion of a probationary period.

"Director" means a designated head of an organizational unit as reflected in the organizational chart of the State Board of Elections, including the Executive Director.

"Disclosure Statement" means an internal document that is a statement of outside employment that may cause a potential conflict of interest in performing job duties for the State Board of Elections.

"Executive Director" means Executive Director of the State Board of Elections.

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"Executive Employee" means the General Counsel, Executive Director, and Assistant Executive Director of the Board.

"General Counsel" means the designated head of legal counsel as reflected in the organizational chart of the State Board of Elections.

"Immediate Family" means spouse, parents, stepparents, children, stepchildren, siblings, grandparents, grandchildren, same sex partners, and other persons abiding within the same household eligible to be covered as dependents for health insurance or claimed for income tax purposes.

"Office" means the Office of the State Board of Elections.

"Organizational Unit" means the unit to which an employee's position is assigned, as set forth in the Board's organizational chart.

"Personnel Transaction" means any transaction that affects an employee's salary, service date, title, and/or position number change.

"Probationary Employee" means an employee serving a probationary period after initial hiring from outside the Office.

"Probationary Period" means a period of at least six calendar months preceding receipt of notice of certification and after initial hiring from outside the Office or at least four months after appointment to a position within the Office in which the employee has not previously been certified.

"Retirement System" means the State Employees Retirement System.

"State Service" means employment with those agencies, boards and /or commissions covered under the State Employee Retirement System.

"Term Appointment" means a term of four years to which a Director is appointed by the Board. At the expiration of four years, the appointment automatically terminates unless renewed by the Board.

"Trainee Appointment" means the appointment of qualified employees to an established program of supervised training and experience necessary for satisfactory performance in technical or professional positions, which are, in the

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judgment of the Director and Executive Director, difficult to fill with qualified employees.

Section 212.214 Position Classification and Compensation

- a) Position Classification
 - 1) **Organizational Structure:** The organizational structure of the Office shall be as established by the Executive Director and maintained on file in the Office of Administrative Services.
 - 2) **Positions and Service:** The establishment and abolition of positions and duties shall be at the discretion of the Executive Director and the Board. All employees serve at the discretion of the Board, subject to the employee rights established by this Part.
 - 3) **Classification Plan:** The Director of Administrative Services shall maintain, and revise when necessary, a uniform position classification plan for positions necessary to carry out the duties of the Office. The classification plan shall be based on the similarity of duties and responsibilities assigned so that the same schedule of pay may be equitably applied to all positions within a classification, under the same or substantially the same employment conditions. Employees shall be classified by position and each position classification shall be governed by a formal, written position description approved by the Executive Director. Any change in salary or position description shall be recorded as a personnel transaction.
 - 4) **Allocation:** It is the responsibility of each Director to report to the Executive Director and the Director of Administrative Services any significant changes in the duties of any position within the organizational unit. At a Director's request and upon approval by the Executive Director and the Director of Administrative Services, a survey, audit, or other investigation as may be deemed necessary by the Director shall be made to determine the proper allocation of any position to a classification. Upon written request of an employee to a Director and upon approval of the Executive Director and the Director of Administrative Services, the investigation by a Director shall be made to determine the proper allocation of the employee's position. It shall be the responsibility of the Director of the organizational unit in which the position is located to

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notify the employee, the Executive Director and the Director of Administrative Services of the determination concerning the proper allocation of the employee's position.

- 5) Reconsideration:
 - A) Within 30 days after receiving notice of the determination concerning proper allocation of a position, the employee may make a request in writing to the Director for reconsideration of the determination. Thereafter, the Director shall reinvestigate the duties and responsibilities of the position and, if necessary, of related positions. The employee shall be given a reasonable opportunity to be heard by the Director.
 - B) After the re-investigation, the Director shall render a decision in writing and it shall be served on the employee in person or by certified mail, return receipt requested, at the employee's last address shown in the personnel file and to the Executive Director and the Director of Administrative Services. The effective date of the reconsidered decision shall be the effective date of the allocation decision giving rise to the reconsideration request.
 - C) An employee wishing to appeal the reconsidered decision shall be entitled to a hearing by the Grievance Review Committee in accordance with the procedure established in Section 212.270 of this Part.
- 6) Assignments to Other Classifications: An employee whose position has been allocated to a classification having a higher, lower, or same maximum permissible salary or rate may remain in the position; provided, however, that the Executive Director shall determine, in the case of allocation to a class having a higher maximum salary or rate, whether, considering the nature of the change in duties, the employee is qualified for the position.
- 7) Revised Class Requirements: When requirements for a classification are revised and the duties and responsibilities of positions comprising the classification remain essentially unchanged, incumbents in these positions who qualified under previous requirements for the classification shall be considered qualified.

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- b) Compensation Plan
 - 1) Establishment of Plan: The Executive Director shall establish and maintain on file in the Office of Administrative Services a Pay Plan for all employees. The Pay Plan shall designate a salary range for each position classification. The salary for any particular position shall be fixed by the Executive Director within the designated salary range and based, in his or her discretion, on the duties, responsibilities and work requirements of that position as they relate to the total duties, responsibilities and work requirements of the Office.
 - 2) Provisions of the Pay Plan:
 - A) The Pay Plan shall provide for starting rates of pay, and the time and manner in which subsequent changes of salary may be made. The rate each employee is to be paid shall be set forth in appropriate documents contained within his or her personnel file. The Pay Plan may also include other provisions not inconsistent with law to assist in the administration of good personnel practices for the Office.
 - B) The Director or the Executive Director shall have discretion, subject to Board approval, over whether to grant pay increases for any employee within his or her organizational unit. Merit increases shall not be granted automatically for time in service. The Board shall have complete discretion over whether to grant pay increases for Executive Employees and Directors.

Section 212.218 Application and Appointment

- a) Applications for Employment
 - 1) Notice: Positions shall be advertised in both the Springfield office and the Chicago office by posting, unless the Executive Director directs otherwise. Other recruitment methods may be used as deemed appropriate.
 - 2) Submission of Application:

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- A) Persons seeking employment must submit an application, resume or other documents demonstrating education and experience.
 - B) Employees seeking positions within the Office must apply in writing to the Director of the organizational unit in which the desired position is located. The Director shall submit copies of applications received to the Executive Director and the Director of Administrative Services.
- 3) Screening of Applicants:
- A) Interviews: Directors or their designees are responsible for screening applications for non-Executive Employee positions. Interviews may be conducted as part of the screening process. Interviews shall be conducted by the Director of the organizational unit, the Director of Administrative Services and the Human Resource Manager, except as provided for in subsection (a)(3)(C).
 - B) Executive Employee Interviews: The Board shall conduct interviews for the positions of Executive Director, Assistant Executive Director, General Counsel and Director.
 - C) Examinations: The Executive Director may require any applicants for any positions, including positions mentioned in subsection (a), to take examinations as a means to assess knowledge, skills and the ability to perform the duties of the position.
- 4) Criteria for Selection:
- A) Selection may be based on education, experience, interviews, references, and examinations, if conducted. Other factors, such as experience within the Office, may also be considered.
 - B) Pre-employment screening of applicants may include, but is not limited to, background checks and routine reference verifications.
 - C) If, following the screening process, the Director desires to place an applicant in a position, the Director shall submit his or her recommendation to the Executive Director for final action, including the decision not to fill the position.

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- D) A central file of all applicants who applied for or were considered for a position, along with appropriate supporting material, shall be maintained in the Office of Administrative Services for a minimum of three years from the date the position is filled or a decision to not fill the position is made.
- b) Appointment
- 1) Notice of Appointment: Upon approval of the Executive Director, the Director of Administrative Services shall notify applicants in writing of their appointment to a position. The notification shall state the position classification, work location, starting salary, and beginning date of employment, all contained in a conditions of employment agreement that shall be signed by all new appointees. Appointments become effective upon the applicant's reporting for work at the place and time designated in the notification.
 - 2) Types of Appointment: The following types of appointments may be made by the Executive Director or a Director, subject to the concurrence of the Executive Director.
 - A) Probationary Employees: All appointments for newly hired employees shall be subject to the employee's performance through two consecutive performance appraisals by the Executive Director or a Director or his or her designee of approximately three months each and receipt of notification that the employee has been certified in the position to which appointed. At any time during this probationary period, newly hired employees may be discharged without notice, cause or any right to hearing.
 - B) Certified Employees: Employees successfully completing a probationary period shall be appointed to certified status. Appointment to certified status shall be effective upon receipt of written notice from the Executive Director or his or her designee.
 - C) Temporary Employees: Employees authorized by the Executive Director or a Director to perform duties and responsibilities on a temporary basis shall receive compensation at the designated rate

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of a temporary employment agency supplying the worker or as agreed to by the employee and the Executive Director.

- D) Acting Status in a Non-Executive Employee Position: An employee assigned to acting status for any position shall, at the Executive Director's or a Director's discretion, be paid in accordance with the salary range allocated to the position and the responsibilities incurred as a result of the acting assignment; provided, however, that payment shall not be lower than the employee's base salary immediately prior to the acting assignment. An employee removed from acting status shall be returned to the same or a similar position to the one held prior to the acting status appointment. The employee's salary shall be not less than his or her salary at the time he or she was appointed to the acting status.
 - E) Acting Status in an Executive Employee Position: An employee assigned to acting status to an Executive Employee position classification shall only be appointed by the Board and shall follow the procedures set forth in subsection (b)(2)(D).
 - F) Trainee Appointments: Employees appointed to a trainee position shall be promoted by the Director of the employee's organizational unit, subject to the concurrence of the Executive Director, to the permanent targeted title with no probationary period only after successful completion of the training period, which shall be a minimum of six months and shall not exceed 12 months. Employees appointed to trainee positions may be discharged at anytime prior to promotion without rights to appeal.
- 3) Other Appointments: The following types of appointments shall be made only by the Board:
- A) Executive Employees: Executive Employees serve at the discretion of the Board and may be discharged or demoted by the Board at any time without notice, cause or any rights to a hearing.
 - B) Term Appointments: Directors who are appointed for four year terms may be discharged at the end of their term without cause or any rights to a hearing. Sixty days prior to the expiration of the term appointment, the Director of Administrative Services shall

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serve a notice upon the appointee either in person or by certified mail, return receipt requested, at the employee's last address listed in the personnel file. Notice shall also be given to the Chairman of the Board and the Executive Director. The Chairman of the Board shall notify the employee 30 days prior to the expiration of the term of the intention to renew or not renew the appointment.

- c) Contractual Employees: Contractual employees have no rights under this Part.

Section 212.222 Work Schedule and Attendance

- a) The Executive Director shall establish and maintain on file in the Office of Administrative Services a schedule of working hours for the Office.
- b) The Office of Administrative Services shall maintain daily attendance records for all employees.
- c) An employee shall, whenever possible, provide advance notice of absence from work. For those positions specified in the Pay Plan, any time away from scheduled work hours that is not specifically authorized by a Director or his or her designee in writing shall constitute cause for a deduction from pay. Absence of an employee for five consecutive workdays without reporting to the appropriate Director may be cause for discharge.
- d) Employees who do not have earned time off credited to their name, yet are absent from work, shall be marked as unexcused and their pay shall be adjusted to reflect the absence. More than three unexcused absences annually could result in disciplinary action, up to and including discharge.
- e) Emergency Shut-Down:
 - 1) The Executive Director (or his or her designee) shall declare an emergency shut-down of the Office when there occurs a disruption of the work at the worksite caused by a condition beyond the control of the Office, such as equipment failure, terrorist attack, fire, flood, snow, tornado or other natural disaster, or interruption of services such as water or electricity. The Executive Director may require certain employees to work during this period to maintain essential services, to help restore services or for other necessary purposes.

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- 2) It shall be the responsibility of the Executive Director (or his or her designee) to notify affected employees of the emergency shut-down. Time in non-work status is with pay. Those employees on approved sick leave or vacation at the time of emergency shut-down shall be reimbursed for those days previously approved.

Section 212.226 Continuous Service

- a) Definition:
 - 1) Continuous service is the uninterrupted period of service from the date of original appointment to State service.
 - 2) Employees who have previous State service that qualified for earning of vacation benefits shall be given credit for that service, as determined by the Office or as required by law.
- b) Interruptions in Continuous Service:
 - 1) Resignation; provided, however, that continuous service shall not be interrupted by resignation when an employee is employed in another position in State service within four calendar days after resignation.
 - 2) Discharge; provided, however, that continuous service shall not be interrupted if the employee is retained in the position after a hearing before the Grievance Review Committee.
 - 3) Termination; if an employee has not been reemployed by the Office within one year after layoff.
- c) Deductions from Continuous Service: Except as provided in subsection (f), the following shall be deducted from, but shall not interrupt, continuous service:
 - 1) Time away from work for any leave of absence without pay totaling more than 30 calendar days in any 12-month period;
 - 2) Time away from work because of disciplinary suspensions totaling more than 30 calendar days in any 12-month period.
 - 3) Time away from work because of layoff.

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- d) **Veteran's Continuous Service:** Leaves of absence shall be granted to all employees who leave their positions and enter military service for four years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or similar position on making an application within 90 days after separation from active duty or from hospitalization continuing after discharge of not more than one year. The employee must provide evidence of satisfactory completion of training and military service or a qualified health care provider's statement when making application and be qualified to perform duties of the position. Continuous service and reemployment rights for veterans subject to federal law shall be as provided in the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4333).
- e) **Peace Corps or Job Corps Enrollees Continuous Service:** Any employee who volunteers and is accepted for service in the overseas or domestic Peace Corps or Job Corps shall be given a leave of absence from his or her State employment for the duration of his or her initial period of service and be restored to the same or similar position provided that the employee returns to employment within 90 days after the termination of service or release from hospitalization from a Peace Corps or Job Corps service connected disability.
- f) **Accrual and Retention of Continuous Service During Certain Leaves:** During an absence for family and medical, educational, administrative, military, Peace Corps or Job Corps, disaster service volunteer or service-connected disability leaves, an employee shall retain and accrue continuous service, provided appropriate application and return is made as required by this Part.

Section 212.230 Personnel Records and Performance Reviews

- a) **Personnel Records:**
 - 1) A personnel file shall be established for each employee upon entry into employment and shall be maintained in the Division of Administrative Services. When the following records are maintained, they must be maintained in the personnel file:
 - A) Applications for employment, letters of recommendation, resumes and school transcripts
 - B) Offers and acceptances of employment

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- C) Employment information cards
 - D) Personnel transaction forms
 - E) Written commendations and disciplinary actions
 - F) Annual performance appraisals
- 2) Records that are non-confidential are not made confidential because of their inclusion in the personnel file.
 - 3) An employee is entitled to view his or her personnel file during working hours with reasonable notice to the Director of Administrative Services or his or her designee. These records may be inspected only in the presence of the Executive Director or his or her designee or the Director of Administrative Services or his or her designee. Certain records in the personnel file, in accordance with the law, may be withheld from the employee's inspection. In addition, personnel files may be viewed by the Board, Executive Director, Assistant Executive Director, and the Director of Administrative Services or his or her designee. Other employees, only at the discretion of the Executive Director, may view an employee's personnel file on a need to know basis only.
 - 4) An employee shall be notified of any additions to or deletions from his or her personnel file. If an employee disagrees with any information contained in the personnel record, the employee may submit a written statement to the Director of Administrative Services explaining his or her position for inclusion in the employee's personnel file.
 - 5) Performance records shall constitute material in an employee's personnel file that is relevant to determining the appropriateness of proposed or recommended personnel transactions.
 - 6) Performance records shall be considered in all cases, unless excepted by this Part, of promotion, demotion, discharge, layoff, reinstatement, merit salary increases and certification. In considering any potential change in an employee's current status, the employee's most recent performance records may be given greater weight than the employee's earlier performance records.

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- b) Performance Evaluations: Performance records of non-Executive Employees shall include an evaluation of employee performance prepared at least annually on prescribed forms. Executive employees shall be evaluated in the time and manner prescribed by the Executive Director or the Board.
- 1) For an employee serving a 6-month probationary period, two evaluations shall be prepared by the Director and submitted to the Director of Administrative Services or his or her designee, one at the end of the third month of the employee's probationary period and another after the fifth month of the probationary period.
 - 2) For an employee serving a 4-month probationary period as a result of a promotion, one evaluation shall be prepared by the Director and submitted to the Director of Administrative Services or his or her designee, after the third month of the probationary period.
 - 3) Additional performance evaluations of individual employees may be conducted by the Executive Director or a Director as deemed necessary.
 - 4) Performance evaluations shall be conducted by the Director of the employee's organizational unit or the employee's direct supervisor. The Executive Director shall conduct performance evaluations for Directors and Executive Employees.
 - 5) Employees shall be required to sign all evaluation forms to indicate they have read the evaluation and it has been discussed with them by the Executive Director or the Director, whichever is appropriate.

Section 212.234 Probationary Status

- a) Probationary Period:
- 1) A probationary period of approximately six months shall be served by a full-time employee who is newly hired from outside the Office.
 - 2) A probationary period of approximately four months shall be served by a full-time employee who is promoted. A probationary employee transferred during the probationary period shall serve that portion of the probationary period that was not completed at the time of the transfer.

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Trainee appointments promoted to the target title after successful completion of the trainee period shall not be subject to a probationary period.

- 3) If an employee is absent from work for more than 15 calendar days during the probationary period, the probationary period shall be extended by the length of the absence.
 - 4) Probationary employees who have not attained certified status shall have no right to grievance procedures with regard to termination, demotion or other employment action.
- b) **Certified Status:** A probationary employee shall attain certified status only after successful completion of a probationary period and receipt of notice of certification from the Executive Director or his or her designee.

Section 212.238 Promotion

- a) **Definition:** A promotion is the appointment by a Director or the Executive Director of an employee to a position in a classification with a higher maximum permissible salary than the former classification. The promotion of an employee by a Director shall be subject to approval of the Executive Director.
- b) **Promotions from Within:** If an outside applicant and an internal applicant are equally qualified for a position, the employee of the Office may be given preference.
- c) **Salary Increases Resulting from Promotion:** Upon promotion, the salary of an employee shall be as provided in the Pay Plan.
- d) **Failure to Complete Probationary Period:**
 - 1) A promoted, previously certified employee who fails to satisfactorily complete the probationary period in the promoted position because of inability to perform the duties and responsibilities of the promoted position shall be returned to a position in the classification from which promoted without the appeal rights specified in Section 212.270 of this Part.

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- 2) A promoted employee who has been previously certified in any position within the Office may be discharged during the probationary period and, in this event, the employee has the same rights to appeal as a certified employee.
- 3) No probationary employee shall be promoted unless the employee has previously held certified status during the current period of continuous service.

Section 212.242 Employee Transfer

- a) Definition: A transfer is the assignment of an employee to a position whose classification has the same maximum permissible salary as the former classification.
- b) Intra-Agency Transfer: An employee may be transferred to a position involving similar qualifications, duties, responsibilities, and salary range in another division, section, or other unit within the Office. Transfers may be made by the Executive Director as he or she deems necessary or desirable, in his or her sole discretion.
- c) Inter-Agency Transfer: An employee may be transferred to a position in the same class, or to a position involving similar qualifications, duties, responsibilities and salary range in another agency of the State of Illinois, with the approval of the other agency and the Office, the Executive Director and/or a Director, and with the consent of the employee. For the purposes of this Section, however, an employee who has laterally transferred from another State agency with less than one year service in the Office shall not be awarded a promotion within the Office unless there are no eligible and qualified candidates with more than one year's service with the Office.
- d) Geographical Transfer: Geographical transfer is the transfer of an employee, for the convenience of the employer, between the Chicago and Springfield offices for the performance of duties other than temporary assignments or details. An employee who refuses to accept a geographical transfer must report for duty at the new location on the designated date but may make a written appeal of the transfer to the Grievance Review Committee in accordance with the procedures established in Section 212.270 of this Part. An employee shall be reimbursed for all reasonable transportation and moving expenses incurred in moving to a new location because of a permanent geographical transfer with prior approval from the Executive Director, unless the transfer was requested by the employee.

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- e) Rights of Transferred Employees: A transferred employee shall retain status, continuous service, and all accrued benefits.
- f) Transfer of Duties: When the duties of a position are relocated by transfer or by abolition and reestablishment and when the duties are substantially the same as the employee's current position classification, an incumbent employee may elect to relocate and retain the duties of the position. Expenses incurred for transportation and moving expenses are not subject to reimbursement.

Section 212.246 Demotion

- a) Definition:
 - 1) Demotion is the assignment of an employee to a position in a classification having a lower maximum permissible salary than the former classification, made for reasons of inability of the employee to perform the work of the position from which the demotion was made or due to the restructuring of duties and responsibilities within the organizational unit.
 - 2) A Director may initiate demotion of an employee by submitting to the Executive Director and the Director of Administrative Services a written statement of reasons for demotion containing sufficient facts to show good cause for the demotion. No demotion shall become effective until prior approval of the Executive Director and written notice is served upon the employee.
- b) Notice to Employee: If the statement of reasons for demotion of a certified employee is approved by the Executive Director, a copy of the approved statement of reasons for demotion shall be served on the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.
- c) Employee Obligations: Upon receipt of the approved statement of reasons for demotion or upon the effective date of demotion, whichever is later, the employee shall leave the position in which assigned prior to receipt of the notice of demotion and report to work to the position to which demoted. An employee's report for work to the position to which demoted shall be without waiving any right to appeal under subsection (e).

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- d) **Salary and Other Benefits of Employee:** Upon receipt by the employee of the approved statement of reasons for demotion, or on the effective date of the demotion, whichever is later, all salaries and benefits of the employee in the position in which assigned prior to receipt of the reasons shall be adjusted to reflect the demotion. An employee assigned to a demotion due to a restructuring of duties and responsibilities within the organizational unit as defined in subsection (a)(1), upon receipt of the approved statement of demotion, or on the effective date of the demotion, whichever is later, shall continue at the same rate of pay of the position in which assigned prior to the receipt of notice of demotion for a period of six months. After six months in the demoted position, the employee's salary shall be adjusted to the appropriate rate of the demotion.
- e) **Appeal by Certified Employee:** An employee who is certified in the position from which demoted may appeal the demotion to the Grievance Review Committee by submitting a request in writing to the Director within 15 calendar days after receipt of the approved statement of reasons for demotion. No later than 10 working days prior to the hearing, the employee shall submit a written statement setting forth his or her position to the Grievance Review Committee, unless the time is extended in writing by the Chair of the Grievance Review Committee.
- f) **Demotion of Other Employees:** The Executive Director may approve the demotion of probationary employees. Notice of demotion shall be served on the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The demotion of probationary employees is not subject to appeal.
- g) **Status of Demoted Employees:** A demoted employee shall serve a probationary period in the position to which demoted unless the employee previously held certified status in that classification, in which case the demotion shall be to certified status in the demoted classification.

Section 212.250 Layoff

- a) **Layoff Procedure**
 - 1) A Director may request the layoff of an employee because of lack of funds, material change in duties or organization, reduced workload or lack of work, or the abolition of the employee's position. Based on

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classification, division or other designation, the order of layoffs shall be within organizational units justified by operations.

- 2) A proposed layoff plan prepared by the Director of Administrative Services is subject to the Executive Director's and the Board's approval before becoming effective and shall include the following:
 - A) A list of all employees in the organizational unit in classifications affected by the layoff plan, showing status and total continuous service for each employee;
 - B) A list of those employees to be laid off;
 - C) Performance records of all employees affected by the layoff plan; and
 - D) An explanation of the organizational unit selected, reflecting division, geographical, operational, and other elements deemed relevant by the Director.
- b) Order of Layoff
 - 1) No certified employee may be laid off until all newly-hired probationary employees in the same position classification, work location and organizational unit are terminated.
 - 2) In accordance with the layoff plan submitted under subsection (a), consideration shall be given to performance records and continuous service.
- c) Effective Date of Layoff: Unless extraordinary operating conditions or events are specified in the proposed layoff plan, no layoff shall be effective until 10 working days after the Executive Director's and the Board's approval of the layoff plan.
- d) Layoff Rights: For a period of six months following the effective date of his or her layoff, a laid off employee shall be notified of any vacancy in the position classification, work location and organizational unit held by the employee at the time of layoff and be given an opportunity to apply for that vacancy.

Section 212.254 Voluntary Reduction

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- a) Voluntary Reduction of Certified and Probationary Employees: Certified and probationary employees may voluntarily request or accept assignment to a vacant position in the same organizational unit in a classification having a lower maximum permissible salary. All requests for or acceptances of the voluntary reductions shall be in writing and signed by the employee and be directed to the Director of the organizational unit in which the vacancy exists. No reduction shall become effective without the written approval of the Executive Director and upon delivery to the employee. A certified employee who is assigned and accepts a voluntary reduction shall be certified in the lower classification without serving a probationary period.
- b) Certified employees who are subject to layoff shall be advised by the Director of Administrative Services by written notice of the opportunity to request a voluntary reduction. Requests for voluntary reduction must be received prior to the proposed effective date of layoff.

Section 212.258 Resignation and Reinstatement

- a) Resignation: An employee who voluntarily leaves his or her position of employment with the Office shall, except in emergency circumstances approved by the Executive Director, give advance notice of intent not less than 10 working days before the effective date of the resignation. Once an employee submits a resignation, the resignation shall not be revoked unless the revocation is requested by the employee and the revocation is approved by the Executive Director. Resignation in good standing means that the employee gave the required notice, or that emergency circumstances justified failure to do so, and that the employee's conduct and work performance were satisfactory at the effective date of the resignation.
- b) Reinstatement: On request of an employee and a Director, the Executive Director shall respond within 30 days after receipt of the request. At his or her discretion, the Executive Director may reinstate an employee who was formerly certified and who resigned or was terminated in good standing or whose position was reallocated downward or who was laterally transferred. The reinstatement may be to a position in the classification to which the employee was assigned prior to resignation, termination, downward allocation, lateral transfer, or layoff or to an equivalent or lower position in a related classification. If deemed necessary by the Executive Director, a reinstated employee may be required to serve a 6-month probationary period in the position to which reinstated.

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Section 212.262 Employee Conduct

- a) Standards of Conduct
Employees of the Office shall obey the rules of conduct of this Office and shall be aware that the absence of a specified published rule of conduct covering an act tending to discredit an employee, this Office or the State of Illinois does not mean that act is condoned or permissible or would not call for, and result in, disciplinary action. Any act of violence or threat of violence in the workplace, especially resulting in bodily harm or intent to commit bodily harm to another person, may be cause for immediate discharge.
- b) Conflicts of Interest
 - 1) General Provisions
No employee shall violate any law, rule, regulation, policy or standard concerning conflicts of interest nor shall any employee engage in any conduct in which the employee's private interests or involvements are, or may reasonably be construed to be, in conflict with or detrimental to the objective performance of his or her official duties and responsibilities.
 - 2) Disclosure Statements
 - A) The purpose of the Disclosure Statement required by this subsection is to aid the Executive Director in maintaining the objectivity and impartiality of the conduct of the activities of the Office and, where a potential conflict is unavoidable, to provide for the full disclosure of the facts and circumstances involved.
 - B) Disclosure Statements shall be confidential. The Office of Administrative Services shall be responsible for the safekeeping of Disclosure Statements. The Executive Director, Assistant Executive Director, General Counsel, the Board and the Director of Administrative Services may review the Disclosure Statements.
 - C) The Executive Director and Director of Administrative Services shall review all Disclosure Statements. If a potential conflict of interest is found, the statements shall be submitted to the Board for review and response.

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- D) Each employee shall file a Disclosure Statement with the Division of Administrative Services immediately upon employment and shall re-file statements by May 1 annually thereafter indicating all involvements or relationships that could affect the employee's performance of his or her official duties. Employees shall be under a continuing duty to advise the Director of Administrative Services or his or her designee promptly in writing of any change that would affect an answer given on their current Disclosure Statements or that might affect the objective or efficient performance of their duties.
- E) Statement of Economic Interests: Certain employees are required to file a Statement of Economic Interests as provided in the Illinois Governmental Ethics Act [5 ILCS 420/4A-101]. The Ethics Officer shall review completed statements prior to their being filed with the Secretary of State's Index Department.
- c) Political Activities
- 1) Participation in Political Activities
No employee may participate in political activities, with the exception of voting, while in the employment of the State Board of Elections, pursuant to the Election Code [10 ILCS 5/1A-13].
- 2) Prohibited Activity
Employees shall not, at any time, use, threaten to use or offer to use the influence or authority of their position to coerce or to persuade any person to follow any course of political action or to make any contribution to a political cause.
- d) Official Conduct
- 1) Criticism of Agencies
No employee shall make use of any information gained in the course of employment with the Office to publicly criticize any State, local, or private agency, such as confidential information obtained during the course of employment with the Office, such as information contained in the record of a closed preliminary hearing.
- 2) Handling Antagonism or Refusals

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When an employee is faced with a situation in which a co-worker or any outside source appears hostile or antagonistic or refuses to release information or documentation relevant to the operation of the Office, unless the requested information is deemed privileged, the employee shall report the fact to his or her supervisor. Employees shall at no time threaten or coerce any person.

3) Self-disqualification from Certain Assignments

When an employee receives an assignment involving a person acting as a representative for any public or private agency or involving the entity itself with whom he or she has had business or other relationships of a nature that might impair, or give the appearance of impairing, the employee's impartiality or independence, the employee shall discuss with his or her supervisor the possible need to have the matter reassigned.

4) Use of Identification

Credentials issued to employees are for use only in establishing identity or authority in connection with official duties. An employee shall not allow the use of his or her credentials by any other person.

e) Use of State Time, Position and Property

1) Personal Use Prohibited

An employee is forbidden to use State time, position or property for personal purposes.

2) Protection of Property

An employee has a responsibility to protect and conserve all State property.

3) Liability for Damage or Loss

An employee may be held financially liable for damage or loss of State property resulting from his or her negligent, willful or wanton acts or omissions. Costs for damage to or loss of State property may be deducted from the responsible employee's pay.

4) Reporting Loss or Damage

An employee shall promptly report any loss, theft, or damage to State property or documents in his or her custody to the Director.

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- 5) **Return of Equipment**

Upon leaving his or her position with the Office, the employee shall return to the Director of his organizational unit all property and credentials assigned to him or her. The Director shall assess the condition of property at the time of its return to assure all equipment is fully operational. At its option, the Office may withhold an employee's final paycheck pending return of State property and credentials assigned to or in the possession of that employee or deduct the value of any property from the departing employee's final paycheck.
- f) **Disclosure of Official or Confidential Information**
 - 1) **Testifying and Responding to Subpoenas**

When requested or subpoenaed to testify or produce documentation pertaining to confidential information before an executive or legislative commission, a court of law or an administrative tribunal, an employee shall notify the Executive Director and the General Counsel prior to giving the testimony or producing the documentation.
 - 2) **Engagements to Speak or Write**
 - A) No employee may accept invitations for public addresses or submit articles for publication that concern the official activities of the Office without obtaining the prior approval of the Director of his or her organizational unit or, in the case of Executive Employees, the Executive Director.
 - B) An employee may not accept compensation, or permit his or her expenses to be paid by sources other than the State of Illinois, for speaking engagements or writings performed as official duties, except with the prior written approval of the Executive Director.

Section 212.266 Discipline and Discharge

- a) **Termination at the Discretion of the Executive Director:** Probationary employees who have not obtained certified status and Executive Employees in the Office may be terminated at any time without notice, cause or any right to a hearing, upon the recommendation of the Director of the employee's organizational unit, at the discretion of the Board and/or the Executive Director. Probationary

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employees who have not obtained certified status in the Office do not have any right to progressive corrective discipline procedures, as set forth in this Section.

- b) Progressive Corrective Discipline:
 - 1) Unless grounds clearly are present warranting immediate discharge or suspension pending decision on discharge, employees shall be subject to corrective discipline progressively applied utilizing counseling, warnings, and/or suspensions as the facts and circumstances dictate, prior to discharge. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, the employee may be discharged in accordance with this Part. This subsection does not apply to employees subject to subsection (a).
 - 2) Grounds warranting immediate discharge or suspension pending decision on discharge shall include, but are not limited to, violence within the workplace resulting in harm to another person, flagrant insubordination, or threat of violence causing imminent fear of physical harm.
- c) Discipline – Written Warnings: A Director or his or her designee may warn an employee either orally or in writing as a disciplinary measure. A copy of any written warning shall be signed by the appropriate Director and placed in the employee's personnel file. A copy of the written warning shall be delivered within three working days after the warning in person or sent by certified mail, return receipt requested, to the last address of the employee appearing in the personnel file. An employee shall have the right to respond to the warning in writing within 10 calendar days after its receipt and any response shall be included in the employee's personnel file.
- d) Suspension:
 - 1) A Director or the Executive Director may suspend an employee without pay for up to 30 working days in any 12-month period. A longer suspension may be approved by the Executive Director. The Director or the Executive Director shall provide the employee with written reasons for the suspension in person or sent by certified mail, return receipt requested, to the last address of the employee appearing in the personnel file. The written charges shall be signed by the Director or the Executive Director and contain a clear and concise statement of facts showing cause for the suspension. One copy of the notice of suspension shall be placed in the

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employee's personnel file and one copy shall be delivered to the Director of Administrative Services. Unless delay will result in clear harm or damage to a division, the employee shall be informed in writing of the proposed suspension and the accompanying reasons, at least four working days prior to the effective date of the suspension. The employee shall have two working days after being informed of the proposed suspension within which to deliver to the Director or the Executive Director written rebuttal to the reasons given for the suspension. A decision not to suspend the employee shall be rendered in writing before the proposed suspension date by the Director or the Executive Director. In the Executive Director's absence, his or her designee shall render a decision.

- 2) The Executive Director shall have final approval on the decision to suspend or not to suspend an employee, unless the employee to be suspended is a Director. If the employee is a Director, the Executive Director shall follow the procedure in subsection (d)(1) and notify the Board of the intention to suspend. The Board shall have final approval on the decision to suspend or not to suspend a Director.
- e) Discharge of Certified Employee:
- 1) Cause for Discharge: The Director of an employee's organizational unit, with the concurrence of the Executive Director, shall determine if there is cause for discharge consisting of some substantial shortcoming supported by disciplinary documentation that renders the continuance of an employee of the Office in some way detrimental to the discipline and/or efficiency of the Office and that the law or sound public policy recognizes as good cause for the employee to no longer being held in that position.
 - 2) Pre-Termination Notification and Procedures: Before charges for discharge may be brought against any certified, non-Executive Employee, the employee shall be apprised of the basis for this action by the Director and the Executive Director and provided with an opportunity to respond to the charges in accordance with the following standards:
 - A) The employee shall be notified in writing by the Director and the Executive Director of the intended discharge.
 - B) A statement of charges in support of the proposed action, full and complete to the Office's knowledge at the time it is drawn, shall be

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given to the employee, including the name of any known witness and a copy of any document pertinent to the charges.

- C) The employee shall have five working days after receipt of the charges in which to respond to them orally or in writing.
- D) The Director and the Executive Director shall receive the response of the employee, whether it is oral or written.
- E) The employee is entitled to be present and may be accompanied by a representative of his or her choice in any meeting. Only other persons as the Executive Director deems necessary shall be entitled to attend the meeting.
- F) The employee, pending the response, may not necessarily be permitted to work or to be present at the Office.
- G) The employee or the employee's representative shall be permitted access to a designated, secure area of the work place to investigate the charges and, upon request, be provided a copy of other pertinent documents. The documents may be inspected only in the presence of an authorized employee as designated by the Executive Director.
- H) The employee or the employee's representative shall be given the opportunity to interview witnesses prior to the Pre-Termination Meeting.
- I) The failure of the employee to respond to the charges within the time limits mentioned in subsection (e)(2)(C), shall not bar the Office from proceeding with the discharge.
- J) When the investigation of the charges causes them to be altered in fact, form, context, or reference from those given the employee at the time the notice was issued and for which the employee has not had an opportunity to respond, a second notice and opportunity for response shall be given to the employee within five working days. Employees shall be given the opportunity to respond to the notice within five working days.

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- 3) **Suspension Pending Decision on Discharge:** The Executive Director may suspend any employee for up to 30 working days pending the decision on whether charges for discharge shall be approved against the employee. The Executive Director shall, at the time of this suspension, provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the employee's personnel file. The Executive Director shall promptly investigate the facts and circumstances and render a decision. Should the Executive Director determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole pursuant to subsection (i). Should the Executive Director determine that discharge of the employee is appropriate, subsection (e)(4) shall apply in its entirety.
- 4) **Discharge of Certified Employee:** The Executive Director or his or her designee may, after compliance with subsection (e)(2), initiate discharge of a certified employee by filing signed written charges for discharge. Written charges shall contain a clear and concise statement of facts showing good cause for discharge, and shall be accompanied by a copy of the employee's evaluations. The final notice of discharge shall contain a statement that the response of the certified employee has been considered before a final decision was made, or that no response was submitted. Notice of approved charges for discharge shall be served on the employee, in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.
- f) **Discharge of Probationary Employee:** Upon recommendation of the Director of the employee's organizational unit, the Executive Director may approve the discharge or suspension of a probationary employee who has not attained certified status in the Office. Written notice of discharge or suspension shall be delivered to the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.
- g) **Employee Obligations:** Upon receipt by the employee of any disciplinary suspension or charges for discharge, the employee shall immediately leave the place of employment and return to the Director of his or her organizational unit any State Board of Elections identification and keys. The Office shall withhold the employee's final paycheck or take other action to insure compliance.

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- h) **Hearing – Certified Employees:** Certified employees who have been served with approved charges for suspension or discharge may appeal to the Grievance Review Committee by submitting a request for hearing in writing within 15 calendar days after receipt of the approved charges for suspension or discharge. No later than 10 working days prior to the hearing, the employee shall submit a written statement to the Executive Director setting forth his or her position, unless the time is extended in writing by the Executive Director.
- i) **Reinstatement from Suspension or Discharge:** An employee reinstated for the period for which he or she was suspended or discharged shall receive full compensation for that period if subsequent investigation results in reversal of the charges. Full compensation shall mean compensation the suspended or discharged employee would have earned in the position during the period of suspension or discharge less any amounts earned by the employee from any other source and any unemployment compensation payments received during that period.
- j) **Suspension/Discharge Resulting from Arrest or Criminal Indictment:**
- 1) The arrest or criminal indictment of any employee shall not necessarily result in immediate grounds for suspension or discharge. The facts resulting in either an arrest or criminal indictment may be grounds for suspension or discharge if they meet one or more of the following criteria:
 - A) resulted from an employee's conduct in the course of employment duties, including failure to perform these duties; or
 - B) occurred on or proximate to Office premises and as a result of the employee's conduct on those premises; or
 - C) raises reasonable doubt concerning the employee's suitability for continued Office employment in the present assignment or position.
 - 2) If an employee is not subject to suspension or discharge under this subsection (j), upon recommendation of the Director of the employee's organizational unit, the Executive Director may, depending upon the needs of the Office, at the request of the employee, place the employee on indefinite leave status, without pay, pending a final court determination of the charges.

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- k) When the Executive Director is the Director of an employee's organizational unit, the Executive Director may perform any actions provided for in this Section relative to the employee without any required recommendation of any other Director.

Section 212.270 Grievance Procedure

- a) Grievance: Any certified employee, unless otherwise excepted by this Part, may file a grievance as to the application of this Part or any policy arising under this Part as to the impact of the application upon his or her employment condition or his or her status. The existence of a grievance procedure is not intended to discourage the informal resolution of complaints. The Office intends this procedure to be used infrequently and only for major matters.
- b) Grievance Procedure – Limitation: The rules of the Office and the official policy arising under those rules are not subject to grievance. The following are not subject to the grievance process: the discipline, demotion or discharge of Executive Employees and probationary employees who have not obtained certified status in the Office; the demotion of a certified employee from a position in which he or she is serving a probationary period; layoff; appointment, discharge or reinstatement, and intra-agency transfers of employees.
- c) An employee shall be allowed reasonable time with pay during working hours for the presentation of a grievance, provided that the employee has obtained permission from his or her Director and the employee is currently in active status on payroll, and the employee's absence will not interfere with agency operations.
- d) Grievance Procedure – Abandonment – Extension:
- 1) Failure of either the grievant or the Grievance Review Committee to comply with the form or time requirements of the grievance procedure shall resolve the matter in favor of the other. The parties may mutually extend the time limits in writing at any level of the procedure. However, whenever the last day of a specified time requirement falls on a day on which the Office is closed for regular business, that time requirement shall automatically be extended to the next day on which the Office is open for regular business.

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- 2) An employee's failure to advance a grievance to the next level of this procedure within specified time limits shall mean that the employee has withdrawn the grievance or, if the employee so indicated, accepted the last answer given in the grievance procedure.
- e) Grievance Procedure – Steps:
- 1) Step 1: A grievant shall submit the grievance to the appropriate Director in writing, including the requested resolution to the grievance. The Director shall note the date and time upon receipt of the grievance and shall, within five working days after the grievance is filed, issue a written decision and serve a copy of the decision in person upon the grievant and place a copy of the decision in the employee's personnel file.
 - 2) Step 2: If the grievance is not satisfactorily resolved or no answer is given within the time limit set forth in Step 1, the grievant may submit, within 10 calendar days from the date the Director's decision was due, to the Executive Director a copy of the written statement of grievance submitted in Step 1, along with a request for a grievance hearing.
- f) Grievance Review Committee:
- 1) The General Counsel shall be the Chair of the Grievance Review Committee. In the absence of the General Counsel, the Executive Director shall appoint a Chair. The Chair, no later than five working days following receipt of an employee's request for a grievance hearing, shall appoint a Grievance Review Committee. The Committee shall consist of three members and shall include the Human Resources Manager. Committee members must have experience or knowledge in the areas of personnel administration and employee relations. The Director or the immediate supervisor of the grievant shall not be appointed to the Committee. If the Chair is a party to the grievance or is unavailable, the Executive Director shall designate another committee member to chair the Grievance Review Committee. If the Human Resources Manager is a party to the grievance or is unavailable, the Chair shall appoint another member.
 - 2) Immediately upon appointment of the Committee, the Chair shall designate the location, time and date for hearing, which shall be no later than 20 working days after receipt of the employee's request for a

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grievance hearing. The grievant shall promptly be notified in person or by certified mail, return receipt requested, of the time, date and place of the hearing.

- 3) The grievant and others who have knowledge of the relevant facts shall have an opportunity to present evidence in person or by written statement, after which the Committee shall meet privately to reach a recommendation. The Chair may require that testimony be given under oath or by sworn affidavit and may be recorded by an audio recording device. In the event the testimony is recorded by an audio recording device, the recording shall be retained in the office of the Director of Administrative Services for a period of three years.
- 4) The members of the Committee shall reduce to writing their recommendations as to the disposition of the grievance and submit them to the Executive Director within five working days following the hearing. A dissenting member of the Committee may make separate recommendations. All recommendations will bear the signatures of the concurring Committee members. Upon receipt of the recommendations from a Grievance Review Committee, the Executive Director, or his or her designee, shall approve, disapprove or modify the Committee recommendations, shall render a decision in writing within five working days, and cause a copy of the decision to be served upon the parties. The Executive Director's decision shall be final as to the grievant.
- 5) The written statement of the employee's grievance, the recommendations of the Grievance Review Committee, and the decision of the Executive Director shall be made part of the grievant's personnel file.
- 6) The Executive Director, for good cause, may extend any deadline set forth in this subsection (f).
- g) Representation: The grievant is entitled to be present and may be accompanied by a representative of his or her choice at the hearing. Only those persons the Chair deems advisable shall be entitled to attend the hearing.

Section 212.274 Sick Leave

- a) Accrual: Full-time employees shall earn sick leave at the rate of one day for each calendar month's service. The Executive Director, Assistant Executive Director

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and temporary employees do not earn sick leave. No employee shall accrue sick leave while remaining on the payroll to collect accrued vacation prior to the effective date of termination.

- b) Use: Sick leave may be used in one hour, half day or full day increments for illness, disability, or injury of the employee, appointments with doctors, dentists or other professional medical practitioners, and in the event of serious illness, disability, injury or death of an immediate family member of the employee. Documentation to substantiate that leave days were used for the purposes stated may be required by the Director if reasonable grounds for abuse exist. In the event an employee does not use any sick leave in any calendar year, the employee shall be awarded one additional personal day on January 1 of the next calendar year after one year of service. A calendar year for the purposes of this provision is the period beginning January 1 and ending December 31 of each year. The additional personal leave shall be used in accordance with Section 212.282 of this Part.
- c) Accumulation: Employees shall be allowed to carry over any unused sick leave allowed under subsection (a), from year to year of continuous service.
- d) Payment in lieu of Sick Leave:
 - 1) Upon termination of employment for any reason, or upon indeterminate layoff, an employee or the employee's estate is entitled to be paid for unused sick leave that accrued on or after January 1, 1984 and prior to January 1, 1998, provided the employee is not employed in another position in State service within four calendar days after the termination.
 - 2) For purposes of this subsection (d), sick leave is deemed to be used by an employee within the following priority order:
 - A) Sick leave earned through December 31, 1983.
 - B) Sick leave earned on or after January 1, 1998.
 - C) Sick leave earned on or after January 1, 1984 and prior to January 1, 1998.

The first earned sick leave shall be the first utilized within each category.

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- 3) In order to determine the amount of sick leave to be paid upon termination of employment, the Office shall:
 - A) compute the number of sick leave days granted to the employee between January 1, 1984 and December 31, 1997;
 - B) compute the employee's sick leave balance for that time period at time of termination; and
 - C) cause lump sum payment to be made for one half of the amount of sick leave in subsection (d)(3)(A) or (B), whichever is the lesser amount, multiplied by the employee's current daily salary rate.
- 4) An employee who is reemployed, reinstated, or recalled from indeterminate layoff and who received lump sum payment in lieu of unused sick days shall have these days restored provided the employee repays at his or her last rate of pay upon return to active employment the gross amount paid by the State for the number of days to be so restored to the employee's sick leave account.
- 5) The payment provided by this subsection (d) shall not be allowed if the purpose of the separation from employment and any subsequent reemployment is for the purpose of obtaining payment.
- 6) The accrued leave shall be certified in writing to the employee by the Office. This certification may be held by the employee or forwarded to the Retirement System.

Section 212.278 Vacation Leave

- a) Accrual:
 - 1) Full-time employees shall earn vacation leave, accrued monthly on a pro-rated basis in accordance with the following schedule:
 - A) From the date of hire until the completion of five years of continuous service: 10 days annually.
 - B) From the completion of five years of continuous service until the completion of nine years of continuous service: 15 days annually.

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- C) From the completion of nine years of continuous service until the completion of 14 years of continuous service: 17 days annually.
 - D) From the completion of 14 years of continuous service until the completion of 19 years of continuous service: 20 days annually.
 - E) From the completion of 19 years of continuous service until the completion of 25 years of continuous service: 22 days annually.
 - F) From the completion of 25 years of continuous service: 25 days annually.
 - G) The Executive Director, Assistant Executive Director and temporary employees do not accrue vacation leave.
- 2) No employee shall accrue vacation leave while remaining on the payroll to collect accrued vacation prior to the effective date of termination.
- b) Use: Vacation leave may be used in one hour, half day or full day increments. Employees may use vacation leave only upon the approval of a Director, or, if the employee is a Director, upon the approval of the Executive Director. No employee may approve his or her own request for vacation leave.
 - c) Continuous Service: Computation of vacation leave of Office employees who have interrupted continuous State service shall be determined as though all previous State service that qualified for earning of vacation benefits is continuous with present service.
 - d) Accumulation: Employees shall not be allowed to accumulate vacation time for more than 24 months after the end of the calendar year in which it is earned. If an employee does not request and take accrued vacation within the 24-month period, vacation earned during that calendar year shall be lost.
 - e) Payout:
 - 1) Upon leaving employment with the Office, an employee, at his or her option:

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- A) may be paid in a lump sum for accrued and unused vacation days up to a maximum of 75 days; or
 - B) may remain on the payroll for the period of time equal to accrued and unused vacation days up to a maximum of 75 days. However, if, during this period, the employee is placed on another State payroll, he or she shall be removed from the Office's payroll. In that event, the employee may receive a lump sum payment for, or transfer to his or her account with the new employer, the remaining balance of his or her maximum accrued vacation days less any vacation days used under this subsection (e)(2).
- 2) The payment provided by subsection (e)(1)(A) shall not be allowed if the purpose of the separation from employment and any subsequent reemployment is for the purpose of obtaining payment.
 - 3) The payment provided by subsection (e)(1) shall not be deemed to extend the effective date of termination by the number of days represented by the payment. Payment shall be computed by multiplying the number of days (hours) of accumulated vacation by the employee's current daily (hourly) rate. The accrued leave amount shall be certified in writing to the employee and may be held by the employee or forwarded to the Retirement System.
 - 4) Upon the death of a State employee, the person or persons specified in Section 14a of the State Finance Act [30 ILCS 104/14a] shall be entitled to receive from the appropriation for personal services available for payment of the employee's compensation, the sum for any accrued vacation period to which the employee was entitled at the time of death. The sum shall be computed by multiplying the employee's last daily rate of pay by the number of days of accrued vacation due.

Section 212.282 Leave for Personal Business

- a) **Accrual:** Full-time employees shall be permitted 22.5 hours of leave for personal business each calendar year with pay. Full-time employees who enter service with the Office during any calendar year shall be given credit for personal business leave at the rate of 3.75 hours for each two months of service for the calendar year in which hired. The Executive Director, Assistant Executive Director and temporary employees do not accrue personal leave. In the event an

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employee does not use any sick leave in any calendar year, the employee shall be awarded one additional personal day on January 1 of the next calendar year after one year of State service. A calendar year for the purposes of this provision is the period beginning January 1 and ending December 31 of each year.

- b) Personal business leave may be used for occurrences or observance of religious holidays, absence due to severe weather conditions, or for other similar personal reasons, but shall not be used to extend a holiday, vacation or other leave without prior approval. Personal business leave may be used by employees in one hour, half day or full day increments. Except for those emergency situations that preclude the making of prior arrangements, personal business leave shall be scheduled sufficiently in advance to be consistent with the Office's operating needs.
- c) Carry Over: Personal business leave shall not accumulate or carry over from year to year. If the services of an Office employee are terminated by reason of retirement, disability or death, the employee, or the employee's estate, as the case may be, shall be paid a lump sum for the number of days of leave for personal business that the employee had accumulated but not used as of the date the employee's services were terminated, in an amount equal to one half of the employee's last rate of pay per working day times the number of leave days accumulated. The accrued leave amount paid under this subsection shall be certified by the Office in writing to the employee or by persons specified in Section 212.278(f), whichever is appropriate. This certification shall be held by the employee or forwarded to the Retirement System.

Section 212.286 Leaves of Absence

- a) Types:
 - 1) Illness: An employee who has expended his or her accumulated sick leave may be granted a leave without pay, provided that he or she submits a required statement from an appropriate health care provider setting forth the reasons for the employee's inability to work. The leave may continue for an appropriate period approved by the Executive Director provided that an appropriate health care provider's statement is submitted within the first 10 calendar days of each month during the leave. The Office shall continue to pay the premiums for the basic (State-paid) health and life insurances for an employee on illness leave until expiration of authorized leave and return to active service, but not to exceed 24 months. Failure to

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submit a statement from an appropriate health care provider within the first 10 days of each month during the leave could result in termination of the leave.

- 2) **On-the-Job Injury and Service-Connected Disease:** An employee who suffers an on-the-job injury or contracts a service-connected disease shall provide notice to the Director and the Director of Administrative Services and be allowed full pay during the first five working days of absence without utilization of any accumulated sick leave or other benefits. Thereafter, the employee shall be permitted to utilize accumulated sick leave or other benefits unless the employee has applied for and been granted temporary total disability benefits in lieu of salary or wages pursuant to the Workers' Compensation Act [820 ILCS 305] or through the State's self-insurance program. In the event the service-connected illness or on-the-job injury becomes the subject of payment benefits provided in the Workers' Compensation Act by the Illinois Workers' Compensation Commission, the courts, the State self-insurance program or other appropriate authority, the employee shall restore to the State the dollar equivalent that duplicates payments made as sick leave or other accumulated benefit time, and the employee's benefit accounts shall be credited with leave time equivalents. Employees whose compensable service-connected injury or illness requires appointments with a doctor, dentist or other professional medical practitioner shall, with supervisor approval, be allowed to go to such appointments without loss of pay and without utilization of sick leave.
- 3) **Family and Medical Leave:**
 - A) **Eligibility:** Employees who have been employed by the Office for at least 12 months and have worked at least 1,250 hours during the 12 months prior to the start of the federal Family Medical Leave Act of 1993 (FMLA) (29 USC 2601) leave are entitled to up to 12 workweeks leave in any 12-month period for one or more of the following reasons:
 - i) because of the birth of a son or daughter of the employee and in order to care for the child;
 - ii) because of the placement of a son or daughter with the employee for adoption or foster care;

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- iii) to care for the spouse, or a son, daughter, or parent of the employee, if the spouse, son, daughter or parent has a serious health condition;
- iv) because of a serious health condition that makes the employee unable to perform the function of the position of the employee.

Spouses employed by the Office may be limited to a combined total of 12 workweeks of family leave for the birth and care of a child, placement of a child for adoption or foster care, or to care for an employee's parent who has a serious health condition.

- B) Use: The entitlement to leave under subsections (a)(3)(A)(i) and (iii) expires at the end of the 12-month period beginning on the date of the birth or placement of a son or daughter. The entitlement to leave under subsections (a)(3)(A)(iii) and (iv) may be taken intermittently when medically necessary and when scheduled, so as to not unduly disrupt the Office's operations.
- C) Benefits: Family and medical leave shall be unpaid. Accrued sick and vacation leave may be applied to the periods of absence at the employee's option authorized in subsection (a)(3)(A). The Office shall continue to pay the premiums for the basic (State-paid) health and life insurances for an employee on family and medical leave.
- D) Restoration: Employees who take leave under this subsection (a)(3) shall be returned to the same or equivalent position with equivalent benefits, pay and other terms and conditions of employment as held by the employee when the leave commenced.
- E) Optional Extension: Family and medical leave may be extended up to a total of six months in any 12-month period at the discretion of the Executive Director.
- F) Notice and Certification: An employee shall provide the Office with not less than 30 days' notice of the employee's intent to take family and medical leave, or other notice as is practical under the circumstances. Documentation supporting the reasons for taking a

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leave may be required. The Office may obtain a second opinion from a health care provider of its choosing. Authorization from an appropriate health care provider to return to work may be required.

- G) The terms and conditions of family and medical leave shall be governed by the Federal Family and Medical Leave Act of 1993.
 - H) In determining whether a veteran meets the FMLA eligibility requirement, the months employed and the hours that were actually worked for the Office shall be combined with the months and hours that would have been worked during the 12 months prior to the start of the leave requested but for the military service.
- 4) **Administrative Leave:** The Executive Director may grant administrative leaves of absence to employees for purposes deemed appropriate. The Executive Director shall determine the duration of the leave and whether the leave shall be with or without pay, full or partial, and with or without State-paid benefits.
 - 5) **Excused Absence:** An employee may be granted an excused absence with pay upon the approval of the Director to whom the employee reports.
 - 6) **Military, Job Corps and Peace Corps Leaves:** Leaves of absence shall be allowed employees who enter military service, the Peace Corps or the Job Corps as provided below and as may be required by law.
 - A) **Military Service Leave:** Leave of absence without pay shall be granted to all employees who leave their positions and enter military service for four years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or a similar position on making application to the Executive Director within 90 days after separation from active duty or from hospitalization continuing after discharge for not more than one year. The employee must provide evidence of satisfactory completion of training and military service when making application for reinstatement and be qualified to perform the duties of the position. Continuous service and reemployment rights for veterans subject to federal law shall be as provided in the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4333).

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- B) Military Reserve Training Leave: Any full-time employee of the Office, other than an independent contractor, who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia, shall be granted leave from Office employment for any period actively spent in military service, including:
- i) basic training;
 - ii) special or advanced training, whether or not within the State and whether or not voluntary; and
 - iii) annual training.

During the leaves, the employee's seniority and other benefits shall continue to accrue. During leaves for annual training, the employee shall continue to receive his or her regular compensation as a State employee. During leaves for basic training and for up to 60 days of special or advanced training, if an employee's compensation for military activities is less than his or her regular compensation as a State employee, he or she shall receive his or her regular compensation as a State employee minus amount of his or her base pay for military activities.

- C) Federal or State Active Duty/Emergency Call Up: Any member of the National Guard employed by the Office whose absence from a position of employment is necessitated by reason of being called to State Active Duty, whether or not voluntary, shall be entitled to reemployment rights and benefits and other employment benefits as provided under the Illinois National Guard Employment Rights Law [20 ILCS 1805/Art. V] or the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301) any other applicable State law, regulation or policy. Except as otherwise provided by law, a member entitled to reemployment upon completion of a period of Federal or State Active Duty shall be promptly reemployed in the position of employment that he or she left with the same increases in status, seniority and wages that were earned during the period of Federal or State Active Duty by employees in like positions who are on the job at the time the

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returning member entered Federal or State Active Duty, or to a position of like seniority, status and pay, unless the Office's circumstances have so changed as to make it impossible or unreasonable to do so. Any member of the National Guard who is reemployed or seeks reemployment to a position of employment under this subsection (a)(6)(C) shall be considered as having been on furlough or leave of absence during Federal or State Active Duty and shall be reemployed without loss of seniority and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices related to employees on furlough or leave of absence in effect at the time the member entered Federal or State Active Duty.

- D) **Active Duty Pay:** Any full-time employee of the State of Illinois, other than an independent contractor, who is a member of the Illinois National Guard or a reserve component of the United States Armed Forces or the Illinois State Militia and who is mobilized to active duty shall continue during the period of active duty to receive benefits and regular compensation as a State employee, minus an amount equal to his or her military active duty base pay. The terms and conditions of active duty leave shall be as determined by the Department of Central Management Services and the State Comptroller. Employees on active duty leave retain all rights to reemployment benefits, including insurance.
- E) **Certification of Leave:** To be eligible for military leave or emergency call-up pay, the employee must provide certification from the commanding officer of his or her unit that the leave taken was for either such purpose.
- F) **Leave for Military Physical Examinations:** Any employee drafted into military service shall be allowed up to three days leave with pay to take a physical examination required by the draft. Upon request, the employee must provide the Office with certification by a responsible authority that the period of leave was actually used for that purpose.
- G) **Peace Corps or Job Corps Enrollees Continuous Service:** Any employee who volunteers and is accepted for service in the overseas or domestic Peace Corps or Job Corps shall be given a

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leave of absence from State employment for the duration of the initial period of service. The employee shall be restored to the same or similar position provided that the employee returns to employment within 90 days after the termination of service or release from hospitalization for a Peace Corps or Job Corps service-connected disability, in which case a physician's statement shall be provided to the Office.

- H) Veterans Hospital Leave: An employee who is also a veteran shall be permitted two days with pay per year to visit a veteran's hospital for examination of a military service-connected disability. The two days shall not be charged against any sick leave currently available to the employee.
- 7) Disaster Service Volunteer Leave: Any employee who is a certified disaster service volunteer of the American Red Cross or assigned to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Act, the Emergency Management Assistance Compact Act, or other applicable administrative rules may be granted leave from work with pay for not more than 20 working days in any 12-month period to participate in specialized disaster relief services for the American Red Cross or for the Illinois Emergency Management Agency, as the case may be, upon the request of the American Red Cross or the Illinois Emergency Management Agency for the services of that employee and, upon the Executive Director's approval, the employee shall be granted disaster service volunteer leave without loss of seniority, pay, vacation time or any other employee benefit.
- 8) Attendance in Court: Any employee called for jury duty or subpoenaed by any legislative, judicial, or administrative tribunal shall be allowed time away from work with pay for these purposes. Upon receiving the sum paid for jury service or witness fee, the employee shall submit the warrant, or its equivalent minus the amount paid for mileage, to the Fiscal Office to be returned to the fund in the State Treasury from which the original payroll warrant was drawn; provided, however, an employee may elect to fulfill the call or subpoena on accrued time off and retain the full amount received for the service.
- 9) Maternity/Paternity and Adoption Leave

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- A) All female employees who show proof that they have received prenatal care in the first 20 weeks shall be eligible for four weeks (20 work days) paid maternity leave. Proof shall be provided to the Office no later than the 24th week of pregnancy. All male employees who show proof that their spouses have received prenatal care in the first 20 weeks, with notification to the Office within 24 weeks, shall be eligible for three weeks (15 work days) of paid paternity leave. The Office may require proof of the birth and marriage for a non-covered spouse. Maternity and/or paternity leave shall be limited to one leave per family for each birth. If both spouses are employed by the State, they are limited to one Maternity/Paternity Leave per birth and care of a child and/or placement of a child for adoption or foster care.
- B) All employees are eligible for three weeks (15 work days) of paid leave with a new adoption, with the leave to commence when physical custody of the child has been granted to the employee, provided that the employee can show that the formal adoption process is underway. The Office must be notified, and the employee must submit proof that the adoption has been initiated. Adoption leave shall be limited to one leave per family per year.
- 10) Educational Leave: The Executive Director may grant an employee an educational leave of absence for the purpose of engaging in a training course. No educational leave may be granted unless, in the Executive Director's judgment, the training course would benefit the Office by improving the employee's qualifications to perform the duties of the employee's position in Office service. During a period of educational leave, only State-paid health benefits and life insurance benefits shall continue as provided under Section 10(c) of the State Group Insurance Act [5 ILCS 375/10(c)].
- 11) Organ Donor/Blood Donor Leave:
- A) Upon request and approval by the Office, an employee may be entitled to organ donor and/or blood donor leave with pay as follows:
- i) up to 30 days of organ donation leave in any 12-month period to serve as a bone marrow or organ donor. Medical

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documentation of the proposed organ or bone marrow donation shall be required before the leave is approved by the Director;

- ii) up to one hour to donate blood every 56 days. Medical documentation to substantiate the use of leave time for this purpose may be required;
- iii) up to two hours to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.

B) An employee may not be required to use accumulated sick or vacation leave time before being eligible for leave under this subsection (a)(11). Medical documentation to substantiate the use of leave time for these purposes may be required.

12) Leave Due to Domestic or Sexual Violence: An employee who is a victim of domestic or sexual violence or who has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence may be entitled to take up to 12 workweeks of unpaid leave during any 12-month period for the purposes and under the terms and conditions provided in the Victims' Economic Security and Safety Act [820 ILCS 180] and implementing regulations (56 Ill. Adm. Code 280).

b) Employee Rights After Leave: When an employee returns from a leave of absence of six months or less, the Office shall return the employee to the same or similar position in which the employee was incumbent prior to the commencement of leave, provided that all requirements for substantiation of use of leave or physical fitness have been furnished and that application for reassignment is made within the specified time limit of the leave. When an employee returns from a leave of absence exceeding six months in duration, other than leave of absence granted under subsection (a)(6), and there is no vacant position in the same position classification in which the employee was incumbent prior to the commencement of leave, the employee may be laid off. An employee returning from a leave of absence under subsection (a)(6) shall be returned to the same or similar position in which the employee was incumbent prior to the

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commencement of leave, provided that all requirements for substantiation of use of leave or physical fitness have been furnished, that application for reassignment is made within the specified time limits of the leave, and that the Office's circumstances have not changed so as to make reassignments impossible or unreasonable.

- c) **Failure to Return:** Failure of an employee to return from leave within five working days after the expiration or termination date of a leave, whichever is applicable, may be cause for discharge. Leave shall automatically terminate upon the employee's securing other employment during the leave period. It shall be the employee's responsibility to notify the Director and the Director of Administrative Services of other employment.
- d) **Accrual and Retention of Continuous Service during Certain Leaves:** During the following leaves, an employee shall retain and accrue continuous service, provided appropriate application and return is made as required by this Section: family and medical leave; educational leave; administrative leave; military leave; Peace Corps or Job Corps leave; disaster service volunteer leave; or service-connected disability leave.

Section 212.290 Holidays

- a) **Authorized Holidays:** All full-time employees shall have time off, with full salary payment, on the day designated as a holiday for the following:
 - 1) New Year's Day
 - 2) Martin Luther King Day
 - 3) Lincoln's Birthday
 - 4) Washington's Birthday (President's Day)
 - 5) Memorial Day
 - 6) Independence Day
 - 7) Labor Day
 - 8) Columbus Day
 - 9) Veteran's Day
 - 10) Thanksgiving
 - 11) Christmas Day
 - 12) General Election Day (on which members of the House of Representatives are elected). Employees required to work on General Election Day shall be granted equivalent time off in the following 12-month period at a time convenient to the employee and consistent with the Office's operating

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needs. Temporary employees shall not be compensated for non-working days or holidays.

- 13) Any additional days proclaimed by the Governor of the State of Illinois or the President of the United States.
- b) **Holiday Observance:** Where employees are scheduled and required to work on a holiday, equivalent time off shall be granted within the following 12-month period at a time convenient to the employee and consistent with the Office's operating needs.
- c) **Holiday during Vacation:** When a holiday falls on an employee's regularly scheduled work day during the employee's vacation period, an extra day shall be added to the employee's accumulated vacation days.

Section 212.294 Overtime

- a) **Overtime:** For those positions that are not considered executive, administrative or professional as defined under the provisions of 29 CFR 541 and for those executive, administrative or professional positions for which compensatory time is authorized by the Executive Director, authorized work in excess of the scheduled workweek as established by subsection (a)(2) shall be overtime. Overtime may be compensated in cash or compensatory time.
 - 1) Each Director shall determine the need for and establish an overtime schedule that recognizes the unique mission and workload of the organizational unit. The Executive Director may require employees to work overtime or at times other than their regular work schedule to meet workloads or service requirements of the Office.
 - 2) The definition of a scheduled workweek is as follows:
 - A) The Springfield office's regularly scheduled work hours shall be 37.5 hours, Monday through Friday, 8:00 A.M to 4:30 P.M.
 - B) The Chicago office's regularly scheduled work hours shall be 37.5 hours, Monday through Friday, 8:30 A.M. to 5:00 P.M.
 - C) Scheduled work hours for employees on an approved flex-time work schedule, as approved by the Executive Director, shall be reflected as designated by the Executive Director.

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- b) **Compensatory Time:** An employee's overtime accumulations shall be liquidated by the utilization of compensatory time off, when that utilization is practical. Compensation shall be made at a straight-time rate for work in excess of the scheduled workweek but less than a 40 hour workweek. For those positions that are not considered executive, administrative or professional, work in excess of a 40 hour week shall be compensated at time and one-half. For those employees in professional positions for which compensatory time is authorized by the Executive Director, work in excess of a 40 hour week shall be compensated on an hour for hour basis.
- c) **Compensatory Time Schedule:** Compensatory time must be pre-approved by the Director of the employee's organizational unit, the Executive Director or the Assistant Executive Director.
- d) **Overtime Compensation Liquidation:** Whenever it is not practical to liquidate an employee's overtime with compensatory time off, or whenever the employee's accrued compensatory time exceeds 240 hours, the employee shall be reimbursed on normal payroll, subject to withholding, at the employee's current rate of pay. Payment shall be made at a straight-time rate for work in excess of the scheduled workweek but less than a 40 hour workweek. For those positions that are not considered executive, administrative or professional, work in excess of a 40 hour workweek shall be paid at time and one-half. For those employees in professional positions for which compensatory time is authorized by the Executive Director, work in excess of a 40 hour week shall be compensated on an hour for hour basis.
- e) **Overtime – Accumulation:** All employee overtime compensation shall be liquidated by the end of the fiscal year unless prior approval is obtained by the Executive Director to extend the time period.
- f) All overtime records shall be approved by the Director and kept in the Office of Administrative Services and entered on the monthly Time and Attendance System.

Section 212.298 Interpretation and Application of Rules

The Executive Director shall determine the proper interpretation and application of each provision of this Part. The decision of the Executive Director as to the proper interpretation or application of any rule shall be final and binding upon all affected employees unless modified or reversed by the Grievance Review Committee, the courts or an administrative tribunal.

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Section 212.299 Savings Clause

If any Section or part of any Section of this Part shall be held invalid, the remaining provisions of the Part shall have and be given full force and effect as completely as if the invalidated part had not been included therein.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Housing Discrimination
- 2) Code Citation: 71 Ill. Admin. Code 2300
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2300.10	Amendment
2300.30	Amendment
2300.70	Amendment
- 4) Statutory Authority: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A), of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].
- 5) Effective Date of Amendments: August 25, 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 the Illinois Register: June 10, 2005; 29 Ill. Reg. 8291
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: A non-exhaustive list of impracticable circumstances was added to Section 2300.70(b).
- 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? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Sections 7B-102(C)(1), (D)(2), and (G)(1) of the Illinois Human Rights Act [775 ILCS 5/7B-102(C)(1), (D)(2), and (G)(1)] state that the Department must complete an investigation of alleged housing discrimination within 100 days after the charge is filed, unless it is impracticable to do so. The adopted amendments to Sections 2300.10 and 2300.70 clarify that the aforementioned Sections of

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the Illinois Human Rights Act are related, with the intent to permit the Department to complete its investigation. The additional definitions in Sections 2300.10 and 2300.30 clarify terms used in Article 3 of the Illinois Human Rights Act [775 ILCS 5/3] and in this Part.

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

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

(312) 814-1906 or (312) 263-1579 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER VII: DEPARTMENT OF HUMAN RIGHTSPART 2300
HOUSING DISCRIMINATION

Section	
2300.10	Definitions
2300.30	Exemptions
2300.35	Housing for Elderly Persons
2300.50	Dismissal for Refusal to Accept Settlement Offer
2300.70	Procedures
2300.80	Rental of Rooms in a Private Home
2300.90	Real Estate Transactions

AUTHORITY: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A), of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].

SOURCE: Adopted at 16 Ill. Reg. 8178, effective May 19, 1992; amended at 25 Ill. Reg. 2420, effective January 23, 2001; amended at 25 Ill. Reg. 9619, effective July 17, 2001; amended at 29 Ill. Reg. 13808, effective August 25, 2005.

Section 2300.10 Definitions

For purposes of this Part, the following terms shall have the meanings indicated:

Act – shall mean the Illinois Human Rights Act [775 ILCS 5].

Aid, abet, compel or coerce – includes threatening, intimidating or interfering with a real estate transaction or a person for pursuing any right protected under Article 3 of the Act. Such conduct must be: because of unlawful discrimination; because that person has aided or encouraged another person in the exercise or enjoyment of a right protected under Article 3; or because of the race, color, religion, national origin, ancestry, citizenship status, age, sex, marital status, handicap, familial status or unfavorable discharge from the military of visitors or associates of any person.

Department – shall mean the Illinois Department of Human Rights.

Director – shall mean the Director of the Department or a duly authorized

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designee.

(Source: Amended at 29 Ill. Reg. 13808, effective August 25, 2005)

Section 2300.30 Exemptions

- a) It shall not be a civil rights violation to restrict rental of rooms in a housing ~~accommodation~~ ~~accommodation~~, including housing used exclusively for dormitory facilities by educational institutions, to persons of one sex to further important privacy interests.
- b) As used in Section 3-106 of the Act, the phrase "member of his or her family" shall include the person's mother, father, spouse, son, or daughter.

(Source: Amended at 29 Ill. Reg. 13808, effective August 25, 2005)

Section 2300.70 Procedures

- a) Procedures set forth in Articles 7B and 8B of the Act shall be followed for the processing of any civil rights violation set out in Article 6 alleging the following, if related to housing discrimination: retaliation for opposing unlawful discrimination, filing a charge or complaint, or for testifying, assisting or participating in an investigation, proceeding or hearing under the Act; aiding, abetting, compelling or coercing a person to commit a violation of the Act; or willfully interfering with the performance of a duty or the exercise of a power by the Human Rights Commission or one of its members or representatives or by the Department or one of its officers or employees.
- b) Pursuant to Section 7B-102(C)(1), (D)(2) and (G)(1) of the Act, and within 100 days after a charge has been properly filed, the Department (or Director) shall either order that no complaint be filed or file a complaint with the Human Rights Commission, unless it is impracticable to do so. If it is impracticable to do so, the Department shall continue to process the charge pursuant to Section 7B-102 of the Act with the greatest promptness that is administratively feasible. Circumstances of impracticability shall include, but not be limited to:
- 1) Complexity of issues;
 - 2) Death or serious injury of a party or a party's immediate family member;

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- 3) Death or serious illness of the Department's investigator or the investigator's immediate family member;
- 4) Unavailability of witnesses; or
- 5) Processing, litigation and/or enforcement of a subpoena, temporary restraining order or other legal action.

(Source: Amended at 29 Ill. Reg. 13808, effective August 25, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting
- 2) Code Citation: 17 Ill. Adm. Code 530
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
530.70	Amendment
530.80	Amendment
530.85	Amendment
530.95	Amendment
530.105	Amendment
530.110	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].
- 5) Effective Date of Amendments: August 26, 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 all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 20, 2005; 29 Ill. Reg. 7156
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

Section 530.70(a) – following "Division of Parks and Recreation", added "-Pheasant at the address cited in subsection (c)".

Section 530.80(j) – changed "two" to "2".

Section 530.105(m) was changed to read as follows:

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m) Daily Limit:

- 1) Pheasant – 2 (either sex may be harvested)
Bobwhite Quail – 8
Hungarian Partridge – 2
Rabbit – 4
- 2) With written authorization from the Director, the limits provided for in 520 ILCS 5/3.28 shall apply for Illinois Conservation Foundation sponsored hunts.

Section 530.110(b)(2) – added "State" following "Meeker"

- 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? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Amendments to this Part were adopted to update permit reservation procedures, regulations, sites and dates.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

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TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 530

COCK PHEASANT, HUNGARIAN PARTRIDGE,
BOBWHITE QUAIL, AND RABBIT HUNTING

Section	
530.10	Statewide General Regulations
530.20	Statewide Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Cottontail and Swamp Rabbit Regulations
530.30	Statewide Hungarian Partridge Regulations (Repealed)
530.40	Statewide Bobwhite Quail Regulations (Repealed)
530.50	Statewide Rabbit Regulations (Repealed)
530.60	Statewide Crow Regulations (Repealed)
530.70	Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.80	Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.85	Youth Pheasant Hunting Permit Requirements
530.90	Illinois Youth Pheasant Hunting Sites Permit Requirements (Repealed)
530.95	Youth Pheasant Hunting Regulations
530.100	Illinois Youth Pheasant Hunting Regulations (Repealed)
530.105	Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites
530.110	Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites
530.115	Regulations for Hunting by Falconry Methods at Various Department-Owned or -Managed Sites
530.120	Regulations for Hunting Crow at Various Department-Owned or -Managed Sites (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

SOURCE: Adopted at 5 Ill. Reg. 8777, effective August 25, 1981; codified at 5 Ill. Reg. 10634; amended at 6 Ill. Reg. 10667, effective August 20, 1982; amended at 7 Ill. Reg. 10755, effective August 24, 1983; amended at 8 Ill. Reg. 21574, effective October 23, 1984; amended at 9 Ill.

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Reg. 15846, effective October 8, 1985; amended at 10 Ill. Reg. 15579, effective September 16, 1986; emergency amendment at 10 Ill. Reg. 18822, effective October 16, 1986, for a maximum of 150 days; emergency expired March 15, 1987; amended at 11 Ill. Reg. 10546, effective May 21, 1987; amended at 12 Ill. Reg. 12016, effective July 7, 1988; amended at 13 Ill. Reg. 12796, effective July 21, 1989; emergency amendment at 13 Ill. Reg. 12985, effective July 31, 1989, for a maximum of 150 days; emergency expired December 28, 1989; amended at 13 Ill. Reg. 17348, effective October 27, 1989; amended at 14 Ill. Reg. 10775, effective June 20, 1990; emergency amendment at 14 Ill. Reg. 18324, effective October 29, 1990, for a maximum of 150 days; emergency expired March 28, 1991; amended at 15 Ill. Reg. 9924, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 16124, effective October 25, 1991, for a maximum of 150 days; emergency expired March 23, 1992; amended at 15 Ill. Reg. 18138, effective December 6, 1991; amended at 16 Ill. Reg. 12470, effective July 28, 1992; amended at 16 Ill. Reg. 18951, effective December 1, 1992; amended at 17 Ill. Reg. 15534, effective September 10, 1993; amended at 18 Ill. Reg. 12628, effective August 9, 1994; amended at 19 Ill. Reg. 12615, effective August 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12397, effective August 30, 1996; amended at 21 Ill. Reg. 9042, effective June 26, 1997; amended at 22 Ill. Reg. 14762, effective August 3, 1998; amended at 23 Ill. Reg. 9012, effective July 28, 1999; amended at 24 Ill. Reg. 12496, effective August 7, 2000; amended at 25 Ill. Reg. 11119, effective August 21, 2001; amended at 26 Ill. Reg. 16210, effective October 18, 2002; amended at 27 Ill. Reg. 15381, effective September 18, 2003; amended at 28 Ill. Reg. 12835, effective September 1, 2004; amended at 29 Ill. Reg. 13813, effective August 26, 2005.

Section 530.70 Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites

- a) Applicants must contact the Department of Natural Resources (Department or DNR) ~~Springfield Permit Office or the reservation concessionaire~~ to obtain a permit reservation. ~~For~~~~(However, for~~ Silver Springs State Park, Ramsey Lake State Park, Horseshoe Lake State Park (Madison County) and Chain O'Lakes State Park, applicants must contact the public/private partnership area concessionaire. Should the concessionaire, for any reason, fail to operate the concession, applicants must contact ~~the~~ DNR.) Applications for reservations will be accepted on the first Monday of August until 48 hours before the last hunt date. Methods for making reservations are available on the Department's Website at: <http://dnr.state.il.us>, ~~by email at:~~ pheasant@dnrmail.state.il.us or ~~by writing to/from~~ the Department's [Division of Parks and Recreation-Pheasant at the address cited in subsection \(c\)](#)~~permit office~~. Only applications for reservations submitted by Illinois residents will be ~~accepted~~~~processed~~ during the first two weeks of the application period. Reservations will be confirmed. Providing false information

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on the application is a Class A misdemeanor (see 520 ILCS 5/2.38).

- b) Permits will be issued until the daily quota is filled. The daily quota is determined by the formula one hunter per 10 to 80 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) For all DNR operated sites the permit is valid for the permit holder and up to three hunting partners. The hunting partners cannot hunt without the permit holder being present to hunt. Methods for changing hunting reservations and transferring permits will be provided on the Department's Website at: <http://dnr.state.il.us>, by email at: pheasant@dnrmail.state.il.us or by writing~~or write~~ to:
- Illinois Department of Natural Resources
Division of Parks and Recreation – Pheasant
One Natural Resources Way
P.O. Box 19457
Springfield IL 62702-1271, Illinois 62794-9457
- d) Reservations for pheasant hunting will be issued by the Department~~from the reservation concessionaire or Springfield Permit Office~~ for the Des Plaines Conservation Area, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit, Kankakee River State Park, Lee County Conservation Area (Green River), Moraine View State Park, Sand Ridge State Forest and Wayne Fitzgerald State Park.
- e) The Department will operate a conveyance for disabled hunters possessing a current Standing Vehicle Permit at some controlled pheasant hunting sites. Reservations for this conveyance must be made at least 2 days in advance, and shall be on a first come-first served basis. Sites where the conveyance will be available as well as dates of operation shall be provided on the Department's Controlled Pheasant Hunting Website and/or publicly announced.

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

Section 530.80 Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites

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a) Hunting Seasons:

- 1) The following controlled pheasant hunting areas shall be closed to pheasant permit hunting on every Monday and Tuesday during the controlled hunting season and on December 25. ~~With authorization from the Director, controlled pheasant hunting may be scheduled on Monday and Tuesday on DNR-operated areas.~~

Chain O'Lakes State Park

Des Plaines Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Horseshoe Lake State Park – Madison County

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit

Kankakee River State Park

Moraine View State Park

Ramsey Lake State Park

Sand Ridge State Forest

Silver Springs State Park

Wayne Fitzgerald State Park (Rend Lake)

- 2) The following controlled pheasant hunting areas are open to the Illinois Youth Pheasant Hunting Program only on the first Sunday of the site's controlled pheasant hunting season.

Chain O'Lakes State Park

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Des Plaines Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit

Lee County Conservation Area (Green River State Wildlife Area)

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerald State Park (Rend Lake)

- 3) The controlled hunting season on Lee County Conservation Area (Green River) is November ~~6, 7, 13, 14, 21, 27, 28, 7, 8, 14, 15, 22, 28, 29~~ and December ~~5, 11, 12, 18, 19, 20, 6, 12, 13, 19, 20, 21~~.

- 4) ~~Controlled~~ On the following area the controlled pheasant hunting seasons are listed below ~~season is the Wednesday before the first Saturday of November through the seventh Sunday following~~; exceptions are in parentheses; with written authorization from the Director, captive-reared game bird hunting may be scheduled during the season authorized by statute (see 520 ILCS 5/2.6) on the following DNR operated areas:

Des Plaines Conservation Area (closed during the November 3-day firearm deer season) and Moraine View State Park – the Wednesday before the first Saturday of November through the ninth Sunday following

Eldon Hazlet State Park and Wayne Fitzgerald State Park – the Wednesday following the first Saturday of November through the ninth Sunday following

Horseshoe Lake State Park-Madison County (closed New Year's Day) – the first hunting day after the close of the central zone duck season through the next following January 31

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Iroquois County Conservation Area (closed during the November 3-day firearm deer season) and Chain O'Lakes State Park – the Wednesday before the first Saturday in November through the following seventh and sixth Sundays, respectively

Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit (closed during the November and December firearm deer seasons), Kankakee River State Park (closed New Year's Day), Ramsey Lake State Park (closed New Year's Day), Sand Ridge State Forest (closed New Year's Day) – season dates are those specified in Section 530.20

Silver Springs State Park (closed New Year's Day) – the third Saturday of October through the next following January 8

- 5) ~~On the following areas the controlled pheasant hunting season is the Wednesday before the first Saturday of November through the ninth Sunday following; exceptions are in parentheses:~~

~~Des Plaines Conservation Area (closed during the November 3-day firearm deer season)~~

~~Moraine View State Park~~

- 6) ~~On the following areas the controlled pheasant hunting season is the Wednesday following the first Saturday of November through the ninth Sunday following:~~

~~Eldon Hazlet State Park~~

~~Wayne Fitzgerald State Park~~

- 7) ~~On the following areas the controlled pheasant hunting season is the first Saturday in November through the next following January 15; exceptions are in parentheses:~~

~~Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit (closed during the November and December firearm deer seasons)~~

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~~Ramsey Lake State Park (closed New Year's Day)~~

~~Sand Ridge State Forest (closed New Year's Day)~~

- 8) ~~On the following area the controlled pheasant hunting season is the Wednesday before the first Saturday in November through the sixth Sunday following:~~

~~Chain O'Lakes State Park~~

- 9) ~~On the following area the controlled pheasant hunting season is the third Saturday of October through the next following January 8:~~

~~Silver Springs State Park (closed New Year's Day)~~

- 10) ~~On the following area the controlled pheasant hunting season is the first hunting day (Wednesday-Sunday) after the close of the central zone duck season through the next following January 31:~~

~~Horseshoe Lake State Park—Madison County (closed New Year's Day)~~

- 11) ~~On the following area the controlled pheasant hunting season is the first Saturday in November through the next following January 8, exceptions are in parentheses:~~

~~Kankakee River State Park (closed New Year's Day)~~

- b) Hunting hours are listed below, exceptions in parentheses. Hunters with reservations are required to check in at the check station on the following sites at the listed times. Hunters with reservations that check in after the required check-in time may not be allowed to hunt if the site hunter quota has been filled.

Site Name	Check-In Times	Hunting Hours
Chain O'Lakes State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m. <u>(Thanksgiving Day – 9:00 a.m.-1:00 p.m.)</u>

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Des Plaines Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Eldon Hazlet State Park (Carlyle Lake)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Horseshoe Lake State Park (Madison County)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Iroquois County Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Jim Edgar Panther Creek State Fish and Wildlife Area (Controlled Unit)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m. (Thanksgiving Day – 9:00 a.m.-1:00 p.m.)
Kankakee River State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m. (Thanksgiving Day – 9:00 a.m.-1:00 p.m.)
Lee County Conservation Area (Green River State Wildlife Area)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Moraine View State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Ramsey Lake State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Sand Ridge State Forest	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m. (Thanksgiving Day – 9:00 a.m.-1:00 p.m.)
Silver Springs State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Wayne Fitzgerald State Park (Rend Lake)	7:00- <u>8:00</u> a.m. 12:00 noon	9:00 a.m.-4:00 p.m. <u>(Thanksgiving Day – 9:00 a.m.-1:00 p.m.)</u>

c) Except for Standing Vehicle Permittees hunting from the Department's disabled

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conveyance, during the controlled pheasant hunting season when daily quotas are not filled, permits shall be issued:

- 1) On a first come-first served basis until 12:00 noon at the following sites:

Des Plaines Conservation Area

Eldon Hazlet State Park

Iroquois County Conservation Area

Lee County Conservation Area (Green River)

Moraine View State Park

Wayne Fitzgerald State Park

- 2) By drawing held at the conclusion of check-in time and if daily quotas remain unfilled at the conclusion of the drawing, on a first come-first served basis until 12:00 noon at the following sites:

Jim Edgar Panther Creek State Fish and Wildlife Area

Kankakee River State Park

Sand Ridge State Forest

- d) Hunting licenses, daily usage stamps and fees:

- 1) During the controlled pheasant hunting season, hunters are required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.
- 2) At the Lee County Conservation Area (Green River) and the Iroquois County Conservation Area hunters must obtain a daily usage stamp from the Department prior to hunting, except on the Sunday following Thanksgiving Day hunters under 16 are not required to obtain a stamp.

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- 3) At Des Plaines Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit, Kankakee River State Park, Moraine View State Park, Eldon Hazlet State Park (Carlyle Lake), Wayne Fitzgerald State Park and Sand Ridge State Forest, hunters must obtain a daily usage stamp from the Department prior to hunting, except on the Sunday following Thanksgiving Day and the Friday between Christmas Day and New Year's Day hunters under 16 are not required to obtain a stamp.
- 4) Fees in the listed amounts must be paid to the public/private partnership area concessionaire at the following sites. In the event of a weather anomaly, such as drought, the listed fees may be increased:

Chain O'Lakes State Park – not more than \$22 per hunting permit

Horseshoe Lake State Park (Madison County) and Ramsey Lake State Park – not more than \$20 for a 2 pheasant hunting permit, \$28 for a 3 pheasant hunting permit, and \$35 for a 4 pheasant hunting permit

Silver Springs State Park – not more than \$22 for a 2 pheasant hunting permit, \$28 for a 3 pheasant hunting permit, and \$36 for a 4 pheasant hunting permit

- e) During the controlled pheasant hunting season, hunters must wear a back patch issued by the check station.
- f) Anyone who has killed game previously and has it in ~~his~~ possession or in ~~their~~~~his~~ vehicle must declare it with the person in charge of the area ~~during check-when he checks~~ in. All ~~such~~ game found in a hunter's possession after ~~he has started~~ hunting ~~has started~~ on the area shall be considered illegally taken if the hunter has not declared it prior to going ~~afield~~~~into the field~~.
- g) All hunting must be done with shotguns or bow and arrow. Only shot shells with a shot size of No. 5 lead, tungsten-iron, tungsten-polymer, tungsten-matrix, No. 4 bismuth, No. 3 steel or tin, or smaller may be used except at Chain O' Lakes State Park, Lee County Conservation Area (Green River), Wayne Fitzgerald State Park and Eldon Hazlet State Park where only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size of

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No. 3 steel or tin, No. 4 bismuth, or No. 5 tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used or in possession. Flu flu arrows only may be used or in possession by bow and arrow hunters.

- h) Non-hunters are not allowed in the field, ~~(except at special hunts publicly announced by the Department where non-hunters authorized by the Department shall be allowed in the field, and except for operators of Department conveyances and of Standing Vehicle Permittees and a single dog handler for the Permittee).~~
- i) Hunters under 16 years of age must be accompanied by an adult hunter.
- j) Daily limits – On the following areas, hunters may obtain one permit each day; a permit authorizes the harvest of 2 pheasants of either sex per hunter; exceptions are in parentheses; with written authorization from the Director, the limits provided for in 520 ILCS 5/3.28 shall apply for Illinois Conservation Foundation sponsored hunts:

Chain O'Lakes State Park (2 pheasant permits per hunter each day)

Des Plaines Conservation Area

Eldon Hazlet State Park

Lee County Conservation Area (2 cock pheasants per permit hunter)

Horseshoe Lake State Park-Madison County (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, first day only, 4 quail and 2 rabbits per hunter)

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area (additionally, 8 bobwhite quail opening day through the following third Sunday only and 4 rabbits per hunter)

Kankakee River State Park (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Moraine View State Park

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Ramsey Lake State Park (2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, 8 bobwhite quail and 4 rabbits per hunter)

Sand Ridge State Forest (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Silver Springs State Park (2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

Wayne Fitzgerald State Park

- 1) ~~Two pheasants of either sex at Eldon Hazlet State Park, Iroquois County Conservation Area, Wayne Fitzgerald State Park, and the Des Plaines Conservation Area.~~
- 2) ~~Two pheasants of either sex, 8 bobwhite quail and 4 rabbits at Kankakee River State Park and Sand Ridge State Forest.~~
- 3) ~~Two pheasants of either sex, 8 bobwhite quail (opening day through the third Sunday following) and 4 rabbits at Jim Edgar Panther Creek State Fish and Wildlife Area.~~
- 4) ~~Four pheasants of either sex at Chain O' Lakes State Park; 2 pheasants of either sex may be taken per permit with a maximum of 2 permits per hunter per day.~~
- 5) ~~Four pheasants of either sex; each hunter may obtain a 2 pheasant permit with a maximum of 2 of these permits per day or a 3 or 4 pheasant permit with a maximum of one of either of these permits per day (except that on the first day of fee hunting, each hunter will also be allowed to harvest 4 quail and 2 rabbits) at Horseshoe Lake State Park (Madison County).~~
- 6) ~~Four pheasants of either sex; each hunter may obtain a 2 pheasant permit with a maximum of 2 of these permits per day or a 3 or 4 pheasant permit with a maximum of one of either of these permits per day; 8 bobwhite quail and 4 rabbits at Ramsey Lake State Park.~~
- 7) ~~Two pheasants of either sex at Moraine View State Park.~~

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- 8) ~~Two cock pheasants at the Lee County Conservation Area (Green River).~~
- 9) ~~Four pheasants of either sex; each hunter may obtain a 2 pheasant permit with a maximum of 2 of these permits per day or a 3 or 4 pheasant permit with a maximum of one of either of these permits per day at Silver Springs State Park.~~
- k) Tagging of birds.
During the controlled pheasant hunting season, all pheasants must be affixed with a Department tag before they are removed from the area during the controlled pheasant hunting season. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- l) During the controlled pheasant hunting season, hunters may not leave the confines of any permit area and return to hunt on the permit area during the same day.
- m) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x) or (z) of the Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days after the citation by written request addressed to: Legal Division, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.
- n) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

Section 530.85 Youth Pheasant Hunting Permit Requirements

- a) Applicants must contact the ~~Department of Natural Resources (Department or DNR) Department's Springfield Permit Office or the reservation concessionaire~~ to obtain a permit reservation. ~~Should the concessionaire, for any reason, fail to operate the concession, applicants must contact the Department.~~ Applications for reservations will be accepted on the first Monday of August until 48 hours before the hunt date. Methods for making reservations are available on the Department's Website at: <http://dnr.state.il.us>, by email at: pheasant@dnrmail.state.il.us or by

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~~writing to from~~ the Department's Division of Parks and Recreation~~Permit Office~~. Only applications for reservations submitted by Illinois residents will be ~~accepted~~processed during the first two weeks of the application period. Reservations will be confirmed. Providing false information on the application is a Class A misdemeanor (see 520 ILCS 5/2.38).

- b) Only one permit per person will be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) Methods for transferring permits will be provided on the Department's Website at: <http://dnr.state.il.us>, by email at: pheasant@dnrmail.state.il.us or by ~~writing~~write to:

Illinois Department of Natural Resources
Division of Parks and Recreation – Youth Pheasant Hunt
One Natural Resources Way
P.O. Box 19457
Springfield IL 62702-1271~~62794-9457~~

- d) Reservations for the Illinois Youth Pheasant Hunt permits will be issued ~~from the Springfield Permit Office~~ for Chain O'Lakes State Park, Clinton Lake State Recreation Area, Des Plaines Conservation Area, Edward R. Madigan State Park, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Lee County Conservation Area (Green River), Moraine View State Park, Wayne Fitzgerald (Rend Lake) State Park, Mackinaw River State Fish and Wildlife Area, Horseshoe Lake State Park (Madison County), Sand Ridge State Forest, Sangchris Lake State Park and Jim Edgar Panther Creek State Fish and Wildlife Area ~~(Controlled Area)~~.

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

Section 530.95 Youth Pheasant Hunting Regulations

- a) At the following sites, the Illinois Youth Pheasant Hunt will be held on:
- 1) the Saturday preceding the opening of the statewide upland game season:

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Clinton Lake State Recreation Area

Mackinaw River State Fish and Wildlife Area

2) ~~the first Sunday of the site's controlled pheasant hunting season:~~

~~Chain O'Lakes State Park~~

~~Des Plaines Conservation Area~~

~~Eldon Hazlet State Park (Carlyle Lake)~~

~~Lee County Conservation Area (Green River)~~

~~Iroquois County Conservation Area~~

~~Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit~~

~~Moraine View State Park~~

~~Sand Ridge State Forest~~

~~Wayne Fitzgerald State Park (Rend Lake)~~

2)3) the Sunday following the opening of the statewide upland game season:

Chain O'Lakes State Park

Des Plaines Conservation Area

Edward R. Madigan State Park

Lee County Conservation Area (Green River)

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit

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[Moraine View State Park](#)

[Sand Ridge State Forest](#)

Sangchris Lake State Park

~~3)~~4) the second Sunday following the opening of the statewide upland game season:

[Eldon Hazlet State Park \(Carlyle Lake\)](#)

Horseshoe Lake State Park (Madison County)

[Wayne Fitzgerald State Park \(Rend Lake\)](#)

- b) Hunting hours are from 9:00 a.m. to 4:00 p.m., except at Sangchris Lake hunting hours are from 11:00 a.m. to 4:00 p.m. Hunters with reservations or permits are required to check in at the check station between 7:00 and 8:00 a.m. (between 10:00 and 10:30 a.m. at Sangchris Lake State Park).
- c) All hunters must be between the ages of 10-15 inclusive and have a youth hunting permit. Stand-by permits will not be available except at Sangchris Lake and Edward R. Madigan State Park.
- d) All hunters are required to deposit their hunting licenses in the check station while hunting. Each permit holder must be accompanied by a non-hunting supervisory adult. If the hunter does not have a valid Firearm Owner's Identification (FOID) card, the supervisory adult is required to have a valid FOID card. Only one supervisory adult in a hunting party is required to have a valid FOID card if the hunters in the hunting party stay under the immediate control (accompany youth hunter at all times) of the supervisory adult possessing the valid FOID card. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.
- e) Supervising adults are required to wear a cap and upper outer garment of solid and vivid blaze orange of a least 400 square inches. Hunters must wear a back patch issued by the check station.

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- f) ~~Persons~~~~Anyone~~ who ~~have~~~~has~~ killed game previously and ~~have~~~~has~~ it in ~~their~~~~his~~ possession or in ~~their~~~~his~~ vehicle must declare it with the person in charge of the area prior to hunting on the area. All previously killed game found in a hunter's possession after ~~he has started~~ hunting ~~has started~~ on the area will be considered illegally taken if the hunter has not declared it prior to going ~~afield~~~~into the field~~.
- g) All hunting must be done with shotguns. Only shot shells with a shot size of #5 lead, tungsten-iron, tungsten-polymer, tungsten-matrix, #4 bismuth, or #3 steel or tin or smaller may be used, except at Chain O'Lakes State Park, Eldon Hazlet State Park, Lee County Conservation Area (Green River) and Wayne Fitzgerald State Park where only shot shells approved as nontoxic by the U.S. Fish and Wildlife Service with a shot size of #3 steel or tin, #4 bismuth, #5 tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used.
- h) Daily limit.
- 1) Two pheasants of either sex at Chain O'Lakes State Park, Des Plaines Conservation Area, Eldon Hazlet State Park, Iroquois County Conservation Area, Horseshoe Lake State Park (Madison County), Moraine View State Park, Sand Ridge State Forest, and Wayne Fitzgerald State Park.
 - 2) Two cock pheasants only at [Clinton Lake State Recreation Area](#), Lee County Conservation Area (Green River) and Mackinaw River State Fish and Wildlife Area.
 - 3) Statewide upland game limits at Sangchris Lake State Park and Edward R. Madigan State Park.
 - 4) Two pheasants of either sex, eight quail and four rabbits at Jim Edgar Panther Creek State Fish and Wildlife Area Controlled Unit.
- i) All pheasants must be affixed with a Department tag before they are removed from the area. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- j) Violation of this Section is a petty offense (see 520 ILCS 5/2.6).

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

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Section 530.105 Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) All areas are closed to fee upland game hunting Mondays and Tuesdays, Christmas Day and New Year's Day. ~~With authorization from the Director, controlled pheasant hunting may be scheduled on Monday or Tuesday on DNR operated areas.~~
- c) Hunting hours are 9:00 a.m. to 4:00 p.m.; on Thanksgiving Day hunting hours are 9:00 a.m. to 1:00 p.m.
- d) All hunting must be done with shotgun or bow and arrow. At Johnson-Sauk Trail State Park only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size of #3 steel or tin, #4 bismuth, or #5 tungsten-iron, tungsten-polymer, tungsten-matrix, or smaller may be used or in possession. Flu flu arrows only may be used or in possession by bow and arrow hunters.
- e) All pheasants must be affixed with a Department tag before they are removed from the area. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- f) Hunter quota selection, daily usage stamp requirements and exemptions and hunter age requirements:
 - 1) A drawing shall be held at the site to fill hunter quotas.
 - 2) A daily usage stamp is required prior to hunting opening date through the day following the final game bird release.
 - 3) Hunters under 16 are not required to obtain a daily usage stamp at Johnson-Sauk Trail State Park on the Sunday following Thanksgiving Day and on the Friday between Christmas Day and New Year's Day.
 - 4) Hunters under 16 years of age must be accompanied by an adult hunter.
- g) When daily quotas are not filled, hunters are allowed to check in on a first come-

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first served basis until 12:00 noon.

- h) The Department shall publicly announce the registration time and quota to be filled.
- i) Hunters are required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.
- j) A back patch issued at the check station must be worn while hunting.
- k) Non-hunters are not allowed in the field (except at special hunts publicly announced by the Department where non-hunters authorized by the Department shall be allowed in the field).
- l) Hunters must not leave the site without first checking out.
- m) Daily Limit:
 - 1) Pheasant – 2 (either sex may be harvested)
Bobwhite Quail – 8
Hungarian Partridge – 2
Rabbit – 4
 - 2) [With written authorization from the Director, the limits provided for in 520 ILCS 5/3.28 shall apply for Illinois Conservation Foundation sponsored hunts.](#)
- n) Statewide regulations as provided for in this Part apply at the following Controlled Daily Drawing Pheasant Hunting sites, except as noted above and in parentheses below. [With written authorization from the Director, captive-reared game bird hunting may be scheduled during the season authorized by statute \(see 520 ILCS 5/2.6\) on the following DNR operated areas:](#)
 - Johnson-Sauk Trail State Park
- o) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x) or (z) of the

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Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days of the citation by written request addressed to: Legal Division, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.

- p) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

Section 530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites

- a) General Site Regulations
- 1) All regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping – apply in this Section, unless this Section is more restrictive.
 - 2) Only flu flu arrows may be used by bow and arrow hunters; broadheads are not allowed.
 - 3) On sites which are indicated by (1), hunters must check in and/or sign out as provided for in 17 Ill. Adm. Code 510.
 - 4) On sites which are indicated by (2), only nontoxic shot approved by the U.S. Fish and Wildlife Service of size #3 steel or #5 bismuth shot or smaller may be used or possessed with a shot size of #3 steel or tin, #4 bismuth, #5 tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used.
 - 5) Site specific rules or exceptions are noted in parentheses after each site.
- b) Site Specific Regulations
- 1) Statewide regulations apply at the following sites:

Anderson Lake Conservation Area (1)

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Apple River Canyon State Park – Salem and Thompson Units
(rabbits only; closed during firearm deer season) (1)

Argyle Lake State Park (closed during firearm deer season) (1)

Banner Marsh State Fish and Wildlife Area (opens the day after the
close of the central zone duck season) (1)

Big Bend State Fish and Wildlife Area (hunting for bobwhite quail
will terminate at the close of legal shooting hours on December 14)
(1)

Big River State Forest (closed during firearm deer season) (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters (Corps of Engineers Managed
Lands)

Carlyle Lake Wildlife Management Area (subimpoundment area
closed 7 days prior to and during the southern zone waterfowl
season)

Chain O'Lakes State Park (open Wednesday after controlled
pheasant hunting season for 5 consecutive days, closed December
25; hunting hours 8 a.m. to 4 p.m.) (1)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

[Deer Pond State Natural Area \(1\)](#)

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area (1)

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Eagle Creek State Park (open only January 16-22)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch only) (1)

Falling Down Prairie (1)

Ferne Clyffe State Park (1)

Fort de Chartres Historic Site (hunting with muzzleloading shotgun or bow and arrow only) (1)

Ft. Massac State Park (1)

Fulton County Goose Management Area (opens the day after the close of the Central Illinois Quota Zone goose season) (1)

Giant City State Park (1)

Hamilton County Conservation Area (1)

Hanover Bluff State Natural Area (1)

Horseshoe Lake Conservation Area (Alexander County) (Public Hunting Area) (1)

Horseshoe Lake Conservation Area (Controlled Hunting Area; closed prior to and during the Canada goose season) (1)

~~I-24 Wildlife Management Area (1)~~

Jubilee College State Park (opens second day of statewide season; pheasant and quail close the Sunday after Thanksgiving) (1)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season) (1)

Kinkaid Lake Fish and Wildlife Area (1)

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Marseilles State Fish and Wildlife Area (closed during the site's firearm deer season) (1)

Marshall Fish and Wildlife Area (closed during firearm deer season) (1)

Mazonia State Fish and Wildlife Area (upland season does not open until the day after the close of the site's waterfowl season; the site is closed Mondays, Tuesdays, Christmas Day and New Year's Day) (1)

Mermet Lake Fish and Wildlife Area (1)

Mississippi River Pools 16, 17, 18

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 21, 22, 24

Mt. Vernon Game Propagation Center (hunting from January 1 to the end of season; rabbits only) (1)

Nauvoo State Park (Max Rowe Unit only)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West Subunit only) (1)

Pyramid State Park (1)

Ramsey Lake State Park (8:00 a.m. to 4:00 p.m.; rabbits and quail only may be hunted on Mondays and Tuesdays during the fee pheasant season) (1)

Randolph County Conservation Area (1)

Ray Norbut State Fish and Wildlife Area (~~all hunting closes December 15 in Eagle Roost Area~~)(1)

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Red Hills State Park (1)

Rend Lake Project Lands and Waters

Sahara Woods State Fish and Wildlife Area (1)

Saline County Conservation Area (1)

Sam Dale Lake Conservation Area (8:00 a.m. to 4:00 p.m.) (1)

Sam Parr State Park (8:00 a.m. to 4:00 p.m.) (1)

Sangamon County Conservation Area

Shawnee National Forest, Oakwood Bottoms (2)

Sielbeck Forest Natural Area (1)

[Skinner Farm State Habitat Area \(1\)](#)

Snakeden Hollow State Fish and Wildlife Area (opens the day after the close of the Central Illinois Quota zone goose season) (1)

~~[Snakeden Hollow State Fish and Wildlife Area — Ives Unit \(1\)](#)~~

[Spoon River State Forest \(1\)](#)

Stephen A. Forbes State Park (8:00 a.m. to 4:00 p.m.) (1)

Tapley Woods State Natural Area (closed during firearm and muzzleloading rifle deer seasons) (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area (Firing Line Management Area only) (1) (2)

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Washington County Conservation Area (1)

Weinberg-King State Park (1)

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Scripps Unit) (1)

Weinberg-King State Park (Spunky Bottoms Unit) (1)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (rabbit only; opens after second firearm deer season) (1)

Wolf Creek State Park (open only January 16-22)

- 2) Statewide regulations apply at the following sites except that hunters must obtain a free site permit from site office; this permit must be in possession while hunting at the site. The permit must be returned, and harvest reported, by February 15 or the hunter will forfeit hunting privileges at the site for the following year:

Chauncey Marsh (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (4:00 p.m. daily closing; closed during firearm deer season)

Hidden Springs State Forest (no hunting during firearm deer season; 4:00 p.m. daily closing)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit

Jim Edgar Panther Creek State Fish and Wildlife Area (Open Unit)

Kickapoo State Park (4:00 p.m. daily closing; closed during

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firearm deer season)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

[Meeker State Habitat Area \(obtain permit at Sam Parr State Park headquarters\)](#)

Middle Fork Fish and Wildlife Area (4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (rabbit hunting permitted Mondays and Tuesdays during the site controlled hunting program and from Wednesday after the permit pheasant season until the end of the Northern Zone Rabbit Season. Quail and pheasant hunting are permitted Wednesday through Sunday following the permit pheasant season; 2 cock pheasants may be taken. All hunting is 8 a.m. to 4 p.m. only.)

Newton Lake Fish and Wildlife Area (closed during firearm deer season)

Pyramid State Park – Galum Unit

Sanganois State Fish and Wildlife Area

Ten Mile Creek State Fish and Wildlife Area (nontoxic shot only on posted waterfowl rest areas)

- 3) Hunting is permitted on the following areas only on the dates listed in parentheses; or on sites indicated by (3), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November, and on each Thursday and Sunday in December, through December 24. On sites indicated by (4), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November and on each Thursday and Sunday in December, through December 24, except closed during the firearm deer seasons and open December 27 and 29. Daily hunting permits filled by drawing through DNR Permit Office. Procedures for application and drawings will be

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publicly announced. Illinois residents will have preference. Only one permit per person will be issued. Each permit authorizes the holder to bring the number of additional hunting partners listed in parentheses for the day's hunt. The permit must be returned and harvest reported by February 15 or permit holders will forfeit hunting privileges at the sites covered in this Section for the following year:

Bradford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Clifton Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Dublin Highlands Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Eagle Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (3)

Edward R. Madigan State Park (open on Mondays from the opening of upland game season until Christmas Day; each permit authorizes the holder to bring 3 hunting partners; check in required before hunting)

Freeman Mine (open every Wednesday in November and December starting with opening day of upland game season except during firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 8 a.m. to 4 p.m.; daily bag limit is 2 cock pheasants, 4 quail, and 2 rabbits)

Franklin Creek State Natural Area – Nachusa Prairie Sand Farm
(each permit authorizes the holder to bring 3 hunting partners) (3)

Green River State Wildlife Area (open only November 5, 9, 10, 12, 16, 23, 26, 10, 11, 13, 17, 24, 27 and December 7, 8, 10, 14, 15, 17, 21, 22, 24, 9, 11, 15, 16, 18, 22, 23; each permit authorizes the holder to bring 5 hunting partners) (1) (2)

Hallsville Pheasant Habitat Area (each permit authorizes the

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holder to bring 3 hunting partners) (3)

Harry "Babe" Woodyard State Natural Area (each permit authorizes the holder to bring 3 hunting partners; 8 a.m. to 4 p.m. hunting hours) (4)

Herschel Workman Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hindsboro Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hurricane Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Jim Edgar Panther Creek State Fish and Wildlife Area (Quail Management Area) (open every Tuesday and Saturday in November, December and January starting with opening day of upland game season except during firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners)

Loda Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Mackinaw State Fish and Wildlife Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Manito Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Maytown Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Perdueville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Pyramid State Park – Captain Unit (open only November 5, 9, 12, 16, 23, 26, 30, 10, 13, 17, 24, 27; December 7, 10, 14, 17, 21, 24, 28, 31, 4, 12, 15, 18, 22, 26, 29; and January 4, 7, 9, 11, 14, 5, 8,

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~~10, 12, 15~~; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – Denmark Unit (open only November ~~6, 9, 12, 16, 23, 26, 30~~, ~~10, 13, 17, 24, 27~~; December ~~7, 11, 14, 17, 21, 24, 28, 31~~, ~~8, 11, 15, 18, 22, 26, 29~~; and January ~~4, 7, 9, 11, 14~~, ~~5, 8, 10, 12, 15~~; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – East Conant Unit (open only November ~~5, 9, 12, 16, 23, 26, 30~~, ~~10, 13, 17, 24, 27~~; December ~~7, 10, 14, 17, 21, 24, 28, 31~~, ~~8, 11, 15, 18, 22, 26, 29~~; and January ~~4, 7, 9, 11, 14~~, ~~5, 8, 10, 12, 15~~; each permit authorizes the holder to bring 2 hunting partners)

Sand Prairie Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sand Ridge State Forest (Sparks Pond Land and Water Reserve Area) (open on Saturdays and Tuesdays from the opening of the upland game season through the end of December except during firearm deer season; each permit authorizes holder to bring 3 hunting partners)

Sangchris Lake State Park (open every Wednesday and Saturday in November and December after the opening day of upland game season except December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 11:00 a.m. to sunset; check in required before hunting)

Saybrook Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Sibley Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Siloam Springs State Park – Scripps Unit (open only the first and third days of firearm deer season and every Tuesday and Saturday [thereafter](#) until close of the statewide quail season; each permit authorizes the holder to bring 3 hunting partners)

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Steward Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Victoria Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Willow Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Wolf Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (4)

- 4) The following sites will be open for pheasant, quail, rabbit and partridge hunting following the site's controlled pheasant hunting season; pheasants of either sex may be taken; all hen pheasants must be tagged by DNR before leaving sites; hunting hours are 8:00 a.m.-4:00 p.m.; hunting dates are noted in parentheses:

Des Plaines Conservation Area (dates are 5 days following the close of the site's permit pheasant season excluding Mondays, Tuesdays and Christmas) (1)

Eldon Hazlet State Park (controlled pheasant hunting area and for 5 consecutive days only) (1)

Iroquois County Wildlife Management Area (open Wednesday through Sunday following permit pheasant season) (1)

Kankakee River State Park (no quail hunting)

- c) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 29 Ill. Reg. 13813, effective August 26, 2005)

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- 1) Heading of the Part: The Taking of Wild Turkeys – Fall Archery Season
- 2) Code Citation: 17 Ill. Adm. Code 720
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
720.30	Amendment
720.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].
- 5) Effective Date of Amendments: August 26, 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 all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 13, 2005; 29 Ill. Reg. 6838
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 720.40, changed site name from "Meeker Habitat Area" to "Meeker State Habitat Area"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to extend the time for the daily hunter registration of harvest from 8:00 p.m. to 10:00 p.m. and to update the list of sites open to hunting.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 720
THE TAKING OF WILD TURKEYS – FALL ARCHERY SEASON

Section

720.10	Hunting Seasons and Counties Open to Hunting
720.20	Statewide Turkey Permit Requirements
720.25	Turkey Permit Requirements – Landowner/Tenant Permits
720.30	Turkey Hunting Regulations
720.40	Regulations at Various Department-Owned or -Managed Sites
720.50	Releasing or Stocking of Turkeys (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

SOURCE: Adopted and codified at 8 Ill. Reg. 7825, effective May 22, 1984; emergency amendments at 8 Ill. Reg. 20086, effective October 12, 1985, for a maximum of 150 days; emergency expired March 2, 1985; amended at 9 Ill. Reg. 14311, effective September 5, 1985; amended at 11 Ill. Reg. 9556, effective May 5, 1987; amended at 12 Ill. Reg. 12254, effective July 15, 1988; amended at 13 Ill. Reg. 12831, effective July 21, 1989; amended at 14 Ill. Reg. 12413, effective July 20, 1990; amended at 15 Ill. Reg. 11611, effective August 2, 1991; amended at 16 Ill. Reg. 11093, effective June 30, 1992; amended at 16 Ill. Reg. 15442, effective September 28, 1992; amended at 17 Ill. Reg. 281, effective December 28, 1992; amended at 17 Ill. Reg. 10850, effective July 1, 1993; amended at 18 Ill. Reg. 10104, effective June 21, 1994; amended at 19 Ill. Reg. 11799, effective August 3, 1995; amended at 20 Ill. Reg. 10890, effective August 5, 1996; amended at 21 Ill. Reg. 9102, effective June 26, 1997; amended at 22 Ill. Reg. 14856, effective August 3, 1998; amended at 23 Ill. Reg. 9082, effective July 28, 1999; amended at 24 Ill. Reg. 8956, effective June 19, 2000; amended at 25 Ill. Reg. 11448, effective August 14, 2001; amended at 26 Ill. Reg. 13867, effective September 5, 2002; amended at 27 Ill. Reg. 12658, effective July 21, 2003; amended at 28 Ill. Reg. 13612, effective September 24, 2004; amended at 29 Ill. Reg. 13845, effective August 26, 2005.

Section 720.30 Turkey Hunting Regulations

- a) It is unlawful:
 - 1) to use live or electronic turkey decoys, recorded calls, dogs or bait. An

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area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;

- 2) to take, or attempt to take, more than 1 wild turkey per valid permit during the fall archery season (either sex may be harvested);
- 3) to use any weapon except a long, recurved or compound bow with a minimum pull of 40 pounds at some point within a 28 inch draw. Minimum arrow length is 20 inches, and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be ~~barbless and~~ have a minimum $\frac{7}{8}$ inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking systems, are illegal. Any mechanical device capable of maintaining a drawn or partially drawn position on a bow is illegal. Crossbows may be used as provided by 520 ILCS 5/2.33;
- 4) for any person having taken the limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional turkeys;
- 5) for any person to hunt wild turkeys without having a signed Archery Wild Turkey Hunting Permit in possession, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- 6) to transport or move a wild turkey without first affixing and properly sealing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill. No person shall leave any turkey that has been killed without properly attaching the turkey permit around the leg; and
- 7) to possess, while in the field during archery turkey season, any turkey permit issued to another person.

- b) Successful hunters must register their harvest by ~~10:008:00~~ p.m. on the same calendar day the turkey was taken by calling the toll-free telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it

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is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in.

- c) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 29 Ill. Reg. 13845, effective August 26, 2005)

Section 720.40 Regulations at Various Department-Owned or -Managed Sites

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9). Those sites followed by a (2) require hunters to obtain a permit from the site before hunting:

* Anderson Lake Conservation Area (1)

Apple River Canyon State Park – Salem and Thompson Units (1)

Argyle Lake State Park (1)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Castle Rock State Park (1)

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Chain O'Lakes State Park (closed Wednesday through Sunday of pheasant season; opens Monday prior to pheasant season and closes Tuesday following close of pheasant season; reopens December 26 through the close of regular season) (1)

Chauncey Marsh (permit available at Red Hills State Park) (2)

Clinton Lake State Recreation Area (2)

Coffeen Lake State Fish and Wildlife Area (2)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dixon Springs State Park (1)

Dog Island Wildlife Management Area (1)

Eagle Creek State Park (2)

Falling Down Prairie (1)

Ferne Clyffe State Park (1)

Fort de Chartres Historic Site

Fort Massac State Park (1)

* Franklin Creek State Park (hunting in designated area only) (1)

Giant City State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area (must possess valid site archery permit) (2)

Hanover Bluff State Natural Area (1)

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Harry "Babe" Woodyard State Natural Area (2)

Horseshoe Lake Conservation Area (Alexander County) (controlled goose hunting area closed 7 days prior to the Quota Zone goose season through the close of the Quota Zone goose season; remainder of the public hunting area open during the statewide season) (1)
(2)

* Horseshoe Lake State Park – Gabaret, Mosenthein and Chouteau Island Units (Madison County) (2)

~~I-24 Wildlife Management Area (1)~~

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site's pheasant permit season) (1)

Jubilee College State Park (1)

Kaskaskia River State Fish and Wildlife Area

Kickapoo State Park (2)

Kinkaid Lake Fish and Wildlife Area

~~Kishwaukee River State Fish and Wildlife Area (1)(2)~~

Lowden-Miller State Forest (1)

Mackinaw River State Fish and Wildlife Area (1)

Marseilles State Fish and Wildlife Area (closed each Friday, Saturday, and Sunday in October) (1)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (1)

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- * Matthiessen State Park (hunting in designated areas only; must have valid archery deer permit in possession to hunt turkeys; open concurrent with site archery deer season; during the statewide firearm deer seasons, hunters must meet orange clothing requirements) (1)

Mautino State Fish and Wildlife Area (2)

Meeker State Habitat Area (obtain permit at Sam Parr State Park) (2)

Mermet Lake State Fish and Wildlife Area (1)

Middle Fork State Fish and Wildlife Area (2)

Mississippi Palisades State Park (November 1 through December 31) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Moraine View State Park (closed Wednesday through Sunday during site's controlled pheasant season) (2)

Nauvoo State Park (Max Rowe Unit only)

Newton Lake Fish and Wildlife Area (must possess valid site archery permit) (2)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (east and north subunits closed November 1) (1)

Pere Marquette State Park (1)

Pyramid State Park

Pyramid State Park – East Conant Unit (2)

- * Ramsey Lake State Park (2)

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- * Randolph County Conservation Area
- | Ray Norbut State Fish and Wildlife Area (~~all hunting closes December 15 in Eagle Roost Area~~) (1)
- * Red Hills State Park (1)
- * Rend Lake Project Lands and Waters
- Sahara Woods State Fish and Wildlife Area (1)
- Saline County Conservation Area (1)
- * Sam Dale Lake Conservation Area (2)
- * Sam Parr State Park (1)
- Sand Ridge State Forest (2)
- * Sandy Ford Land and Water Reserve (1)
- Sanganois State Fish and Wildlife Area (2)
- | Sangchris Lake State Park (1) (2)
- * Shabbona Lake State Park (1)
- Shelbyville Lake – Corps of Engineers Managed Lands
- Shelbyville Wildlife Management Area (2)
- Sielbeck Forest Natural Area (1)
- | Siloam Springs State Park (1) (2)
- Siloam Springs State Park – Buckhorn Unit (resident hunters only) (1)(2)
- | Skinner Farm State Habitat Area (1)

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| [Spoon River State Forest \(1\)](#)

| ~~[Snakeden Hollow Fish and Wildlife Area—Ives Unit \(1\)](#)~~

* Spring Lake State Fish and Wildlife Area (2)

* Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area (2)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area (firing line unit – Statewide season, Public Hunting Area October 1 through October 31, reopens with the close of the Quota Zone goose season) (1)

* Washington County Conservation Area (1)

| [Wayne Fitzgerald State Park \(no hunting during controlled hunts as posted at the site\) \(1\)](#)

Weinberg-King State Park

Weinberg-King State Park – Cecil White Unit

Weinberg-King State Park – Scripps Unit (resident hunters only) (1)

| [Weinberg-King State Park – Spunky Bottoms Unit \(resident hunters only\) \(1\)](#)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (1)

(Source: Amended at 29 Ill. Reg. 13845, effective August 26, 2005)

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- 1) Heading of the Part: Physical Fitness Facility Medical Emergency Preparedness Code
- 2) Code Citation: 77 Ill. Adm. Code 527
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
527.100	New Section
527.200	New Section
527.300	New Section
527.400	New Section
527.500	New Section
527.600	New Section
527.700	New Section
527.800	New Section
527.900	New Section
527.1000	New Section
527.1100	New Section
- 4) Statutory Authority: Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74]
- 5) Effective Date of Rulemaking: August 23, 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 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: 29 Ill. Reg. 3200; March 4, 2005
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. Section 527.100 Inserted "Resource Hospital - the hospital with the authority and responsibility for an EMS System."
 2. Section 527.200(a)(1) Inserted 2 lines. On the first additional line, insert "B) Heartsaver First Aid with CPR and AED"

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- (2002)". On the second additional line, insert " C) Heartsaver AED (2003)".
3. Section 527.400(a) Replaced "525 West Jefferson Street" with "500 East Monroe – 8th Floor".
 4. Section 527.400(a) Replaced "62761" with "62701".
 5. Section 527.500(a) Replaced "applicable" with "local".
 6. Section 527.500(a) "or other authorized" was added after "party".
 7. Section 527.500(b)(1) ", including copies of their certification cards," was deleted.
 8. Section 527.600(a) After "times.", inserted "All facilities required to have an AED pursuant to the Act must have, posted at the main entrance, a notice stating that an AED is located on the premises."
 9. Section 527.600(b) Replaced "525 West Jefferson Street" with "500 East Monroe – 8th Floor".
 10. Section 527.600(b) Replaced "62761" with "62701".
 11. Section 527.700(b) ", " was replaced with "and" after "facility".
 12. Section 527.700(b) ", and shall provide a copy of the manual to trained users" was deleted.
 13. Section 527.800(a) "when the facility has an AED according to the compliance dates of the Act" was added after "Code". Also, "the premises during facility operation, except as provided in subsection (b)" was replaced by "staff at all times".
 14. Section 527.800(b) Subsection (b) and subsections (1)-(3) were deleted.
 15. Section 527.800(b) "and authorized users" was added after "operators".
 16. Section 527.800(c) Replaced "other than facility staff" with "others".
 17. Section 527.900(a) Replaced "525 West Jefferson Street" with "500 East Monroe – 8th Floor".
 18. Section 527.900 Replaced "62761" with "62701".
 19. Section 527.1000(a)(4) "the premises as provided in Section 527.800" was replaced with "staff".
 20. Section 527.1000 Inserted "d) The Department may assess a civil monetary penalty for a second or subsequent violation based on factors including, but not limited to, compliance history, nature of the offense or severity of the injury resulting from the offense."
 21. Section 527.1000 Replaced "d)" with "e)".
 22. Section 527.1000 Replaced "e)" with "f)".
 23. Section 527.1000(f) Replaced "525 West Jefferson Street" with "500

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24. Section 527.1000(f) East Monroe – 8th Floor".
Replaced "62761" with "62701".

The following changes were made in response to comments and suggestions of JCAR:

1. Section 527.300(a)(1) added a subsection "B)" label.
2. Section 527.200(a)(1) added a subsection "C)" label.
3. Section 527.200(a)(1) changed subsection labels "B)" through "G)" to "D)" through "I)".
4. Section 527.300(a)(1) changed "*by a private person or by*" to "by a private person or *by*".
5. Section 527.300(a)(2) deleted "(Section 5.25 of the Act)".
6. Section 527.300(a) added "3) *Any other indoor establishment, whether public or private, that provides services or facilities focusing primarily on cardiovascular exertion.* (Section 5.25 of the Act)".
7. Section 527.300(a) changed "3" to "4".
8. Section 527.300(a) changed "4" to "5" and italicized "a swimming pool; stadium, athletic field; track and field facility; tennis court; basketball court; volleyball court;".
9. Section 527.300(b)(4) deleted "*supervision,*".
10. Section 527.300(b)(4) deleted the period.
11. Section 527.300(b)(4) after the closing parenthesis, added a semicolon.
12. Section 527.600(a) changed to "a) By the compliance dates specified in Section 50 of the Act, each facility must have at least one operational AED".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These rules require indoor physical fitness facilities (as defined herein) to have an automated external defibrillator (AED) on the premises at all times, which is readily accessible for medical emergencies. The facility

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must also file a medical emergency plan with the Department. The rules also provide that the Department may inspect facilities and may cite those that do not comply with the Act and these rules. The rules correspond to the Physical Fitness Facility Medical Emergency Preparedness Act, which became effective on January 1, 2005.

- 16) Information and questions regarding these adopted rules shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 527

PHYSICAL FITNESS FACILITY MEDICAL EMERGENCY PREPAREDNESS CODE

Section

527.100	Definitions
527.200	Incorporated and Referenced Materials
527.300	Indoor Physical Fitness Facility
527.400	Medical Emergency Plan
527.500	Coordination with Local Emergency Medical Services Systems
527.600	Automated External Defibrillators Required
527.700	Maintenance and Testing of Automated External Defibrillators
527.800	Training
527.900	Complaints and Inspections
527.1000	Violations
527.1100	Hearings

AUTHORITY: Implementing and authorized by the Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74].

SOURCE: Adopted at 29 Ill. Reg. 13855, effective August 23, 2005.

Section 527.100 Definitions

Act – the Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74].

Automated External Defibrillator (AED) – a medical device heart monitor and defibrillator that:

Has received approval of its pre-market notification, filed pursuant to 21 USC 360(k), from the United States Food and Drug Administration;

Is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed;

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Upon determining that defibrillation should be performed, either automatically charges and delivers an electrical impulse to an individual, or charges and delivers an electrical impulse at the command of the operator; and

In the case of a defibrillator that may be operated in either an automatic or manual mode, is set to operate in the automatic mode. (Section 10 of the Automated External Defibrillator Act)

Defibrillation – administering an electrical impulse to an individual in order to stop ventricular fibrillation or rapid ventricular tachycardia. (Section 10 of the Automated External Defibrillator Act)

Department – the Department of Public Health. (Section 5.15 of the Act)

Director – the Director of Public Health. (Section 5.10 of the Act)

Emergency Medical Services (EMS) System or System – an organization of hospitals, vehicle service providers and personnel approved by the Department in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS (basic life support), ILS (intermediate life support) and/or ALS (advanced life support) level pursuant to a System Program Plan submitted to and approved by the Department and pursuant to the EMS Regional Plan adopted for the EMS Region in which the System is located. (Section 3.20 of the Emergency Medical Services (EMS) Systems Act)

Hospital – has the meaning ascribed to that term in Section 3 of the Hospital Licensing Act [210 ILCS 85].

Medical emergency – the occurrence of a sudden, serious, and unexpected sickness or injury that would lead a reasonable person, possessing an average knowledge of medicine and health, to believe that the sick or injured person requires urgent or unscheduled medical care. (Section 5.20 of the Act)

9-1-1 – an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue.

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Person – an individual, partnership, association, corporation, limited liability company, or organized group of persons (whether incorporated or not).

Physical fitness facility or facility – has the meaning ascribed to that term in Section 527.300.

Resource Hospital – the hospital with the authority and responsibility for an EMS System.

Trained AED user – a person who has successfully completed a course of instruction in accordance with the standards of a nationally recognized organization such as the American Red Cross or the American Heart Association or a course of instruction in accordance with the Automated External Defibrillator Code (77 Ill. Adm. Code 525) to use an automated external defibrillator, or who is licensed to practice medicine in all its branches in this State. (Section 10 of the Automated External Defibrillator Act)

Section 527.200 Incorporated and Referenced Materials

- a) The following private and professional organization standards are incorporated in this Part:
- 1) American Heart Association
208 South LaSalle St.
Suite 900
Chicago, Illinois 60604-1197
 - A) Heartsaver AED for the Lay Rescuer and First Responder (1998)
 - B) Heartsaver First Aid with CPR and AED (2002)
 - C) Heartsaver AED (2003)
 - D) Heartsaver Facts (1999)
 - E) Fundamentals of BLS for Healthcare Providers (2001)
 - F) BLS for Healthcare Providers (2001)
 - G) Heartsaver CPR and AED for Heartsaver CPR (2002)

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- H) Heartsaver AED and Heartsaver Pediatric CPR (2002)
- I) Instructor's Manual for Basic Life Support (2002)
- 2) American Red Cross
311 W. John Gwynn Avenue
Peoria, Illinois 61605-2566

American Red Cross First Aid/CPR/AED Program Manual:
 - A) Section 12 Adult CPR/AED (2001)
 - B) Section 3 Standard First Aid with AED (2001)
 - C) AED Essentials (2001)
- b) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any subsequent amendments or editions.
- c) The following State of Illinois statutes are referenced in this Part:
 - 1) Automated External Defibrillator Act [410 ILCS 4]
 - 2) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
 - 3) Hospital Licensing Act [210 ILCS 85]
 - 4) Illinois Administrative Procedure Act [5 ILCS 100]
- d) The following State of Illinois rules are referenced in this Part:
 - 1) Automated External Defibrillator Code [77 Ill. Adm. Code 525].
 - 2) Rules of Practice and Procedure in Administrative Hearings [77 Ill. Adm. Code 100].

Section 527.300 Indoor Physical Fitness Facility

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- a) For the purposes of this Part, the term "physical fitness facility" or "facility" includes any indoor establishment that meets all of the following requirements:
- 1) In whole or in part, *is owned or operated by a private person or by a park district, municipality, or other unit of local government, including a home rule unit, or by a public or private elementary or secondary school, college, university, or technical or trade school.*
 - 2) *Is supervised by one or more persons, other than maintenance or security personnel, employed by the private person, unit of local government, school, college, or university for the purpose of directly supervising the physical fitness activities taking place at any of the indoor facilities listed in this subsection (a).*
 - 3) *Any other indoor establishment, whether public or private that provides services or facilities focusing primarily on cardiovascular exertion.*
(Section 5.25 of the Act)
 - 4) Serves a total of 100 or more individuals. The number of individuals served by a facility shall be determined by the greater of: the seating capacity; the capacity of the facility under applicable fire code, pool, or similar standards; or the number of members of the facility. The number of members of the facility includes the complete facility membership, whether or not these members are present at the facility at the same time.
 - 5) *Is a swimming pool; stadium; athletic field; track and field facility; tennis court; basketball court; volleyball court; aerobics studio; dance studio; boxing gym; martial-arts or self-defense studio; wrestling gym; weight-lifting facility; treadmill or stationary bicycle facility; velodrome; racquetball court; gymnastics facility; or any other indoor establishment focusing primarily on cardiovascular exertion where participants engage in relatively continuous active physical exercise that uses large muscle groups and that substantially increases the heart rate.*
- b) For the purposes of this Part, the term "physical fitness facility" or "facility" does not include:
- 1) *A facility serving less than a total of 100 individuals;*
 - 2) *An outdoor facility;*

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- 3) *A facility located in a hospital or in a hotel or motel;*
- 4) *Any facility that does not employ any persons to provide instruction, training, or assistance for persons using the facility (Section 5.25 of the Act);*
- 5) Yoga studios; driving ranges; bowling lanes; putting greens; batting cages; or other facilities where participants do not focus primarily on cardiovascular exertion by engaging in relatively continuous active physical exercise that uses large muscle groups and that substantially increases the heart rate.

Section 527.400 Medical Emergency Plan

- a) The operator of a facility shall adopt and implement a plan for responding to a medical emergency at the facility. The plan must encompass the use of an AED and shall provide a timely, proper response to the occurrence of any other sudden, serious, and unexpected sickness or injury that would lead a reasonable person, possessing an average knowledge of medicine and health, to believe that the sick or injured person requires urgent or unscheduled medical care. The plan must also designate office contacts for the specific facility staff to be notified in the event of a medical emergency. The plan must be filed with the Department by submitting a copy to the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety
500 East Monroe – 8th Floor
Springfield IL 62701

- b) Facility staff shall ensure that 9-1-1 is called immediately for medical emergencies, including each time an AED is used at the facility.
- c) The plan must be updated with the Department after a change in the facility that affects the ability to comply with a medical emergency such as, but not limited to, facility closure for more than 45 days, inoperable AED for more than 45 days, or lack of trained staff for more than 45 days.

Section 527.500 Coordination with Local Emergency Medical Services Systems

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- a) Each use of an AED shall be reported by the facility to the local EMS System Resource Hospital for the vicinity according to Section 525.500 of the Automated External Defibrillator Code. Third party or other authorized users of the facility shall notify the facility operator if the AED is used.
- b) The AED must be registered with the applicable EMS System Resource Hospital for the area in which the AED is located. The EMS System Resource Hospital shall oversee use of the AED and shall ensure that training and maintenance requirements are met.
 - 1) The owner of the AED shall provide a list of trained users at the site to the Resource Hospital.
 - 2) The owner of the AED shall provide a copy of the manufacturer's guidelines for maintenance and training, and documentation confirming that these guidelines were met as requested.
- c) A facility possessing an AED shall notify an agent of the local emergency communications or vehicle dispatch center of the existence, location, and type of the AED.

Section 527.600 Automated External Defibrillators Required

- a) By the compliance dates specified in Section 50 of the Act, each facility must have at least one operational AED on the premises at all times. If the AED becomes inoperable, the facility shall replace or repair the AED within 45 days. The AED must be mobile and accessible at all times. All facilities required to have an AED pursuant to the Act must have, posted at the main entrance, a notice stating that an AED is located on the premises.
- b) Questions concerning compliance with the Act shall be directed to the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety
500 East Monroe – 8th Floor
Springfield IL 62701
- c) Entities requesting a formal Department determination on the application of the Act shall be subject to inspection under Section 527.900.

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Section 527.700 Maintenance and Testing of Automated External Defibrillators

- a) The AED shall be maintained and tested according to the manufacturer's guidelines.
- b) The owner of the AED shall retain a copy of the maintenance and testing manual at the physical fitness facility and shall keep a copy of the manual with the AED.

Section 527.800 Training

- a) Physical fitness facility staff shall be trained in cardiopulmonary resuscitation and the use of an AED according to Sections 525.300 and 525.400 of the Automated External Defibrillator Code when the facility has an AED according to the compliance dates of the Act. The facility must have at least one trained AED user on staff at all times, and also must ensure that appropriate numbers of facility staff and applicable supervisors are trained to avoid lapses in compliance with this Code.
- b) Each member of the facility staff shall be trained on the location of the AED and the requirements of the facility's medical emergency plan. Third party operators and authorized users of the facility shall also be informed, by postings or other notifications, of the AED and the emergency plan.
- c) The facility staff shall take reasonable measures to ensure that the AED is operated only by trained AED users for the intended purposes of the AED. This provision should not be construed to prohibit, however, the use of the AED by others in the event of a medical emergency requiring the use of the AED.

Section 527.900 Complaints and Inspections

- a) Complaints against a facility alleging violations of the Act must be in writing and include the name, address, and telephone number of the complainant. These written complaints shall be submitted to the Illinois Department of Public Health at the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety
500 East Monroe – 8th Floor
Springfield IL 62701

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- b) The Department or delegated representative will inspect a facility after receipt of a valid complaint. A complaint that does not include the complainant's name, address and telephone number or does not allege a specific violation of the Act will be deemed invalid. If a complaint is invalidated, then no inspection will be conducted and no further response to the complainant will be necessary.
- c) The Department or delegated representative also will inspect an entity requesting a formal determination of whether the Act applies to the entity. The determination shall be made in writing by the Director or the Director's designee, shall state the reasons for the determination, and may include the entity's reasons for disagreement, if any. If the entity disagrees with a determination that the Act's requirements apply, and the entity fails to comply with the Act, then the Department shall issue the facility an administrative warning. In the entity's comments to the administrative warning, it also may state the reasons for disagreeing with the Department's determination. Second or subsequent violations of the Act shall be subject to civil monetary penalties.

Section 527.1000 Violations

- a) A person violates the Act by:
 - 1) failing to comply with the Act;
 - 2) failing to adopt or implement a proper medical emergency plan;
 - 3) failing to have the requisite number of AEDs on the premises; or
 - 4) failing to have appropriate numbers of trained AED users and applicable supervisors on staff and to avoid lapses in compliance with this Code.
- b) Upon receipt of a written administrative warning to a facility for an initial violation of the Act, the facility has 10 business days to respond with written comments concerning the facility's remedial response. In the entity's comments to the administrative warning, it may state, for the Department's consideration, the reasons for disagreeing with the Department's determination. The facility may waive the right to submit a written response. Whether or not the facility waives the right to respond, the facility must immediately remediate the circumstances to cure the violation.

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- c) Upon receipt of notice of a subsequent violation of the Act, the facility has 10 business days either to pay any assigned civil monetary penalty or to request an administrative hearing. If the facility fails to pay the civil monetary penalty or to submit a request for a hearing within 10 days after receipt of the notice, then the Department will issue a final order closing the case and will refer the matter to the Attorney General for collection of any monetary penalty.
- d) The Department may assess a civil monetary penalty for a second or subsequent violation based on factors including, but not limited to, compliance history, nature of the offense or severity of the injury resulting from the offenses.
- e) The civil monetary penalty for a second violation of the Act is \$1,500, and the penalty for a third or subsequent violation of the Act is \$2,000. The Department may assess only a total \$1,500 penalty for a second violation irrespective of the number of deficiencies found. For a third or subsequent violation, however, the Department may assess a separate \$2,000 monetary penalty for each deficiency if more than one violation of the Act is found at a facility during the third or subsequent inspection.
- f) Written comments to an administrative warning, requests for hearings, or fines shall be submitted to the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety
500 East Monroe – 8th Floor
Springfield IL 62701

Section 527.1100 Hearings

The Rules of Practice and Procedure in Administrative Hearings and Article 10 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/Art. 10] shall apply to all proceedings conducted under this Part. Where the terms "license" and "licensing" are used in Part 100 and the IAPA, the definitions of those terms and other terms in Part 100 shall be expanded to include hearings concerning physical fitness facilities. In case of conflict between the Rules of Practice and Procedure in Administrative Hearings and the Act or the IAPA and the Act, the terms of the Act shall control.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Lottery (General)
- 2) Code Citation: 11 Ill. Adm. Code 1770
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1770.10	Amendment
1770.20	Amendment
1770.110	Amendment
1770.160	Amendment
1770.180	Amendment
1770.210	Amendment
1770.230	New Section
1770.APPENDIX A	New Section
- 4) Statutory Authority: Implementing Sections 7.1 and 7.2, and authorized by Section 7.1, of the Illinois Lottery Law [20 ILCS 1605/7.1 and 7.2].
- 5) Effective Date of Amendments: August 29, 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, are on file and available for public inspection at the Department of Revenue, Lottery Program's principal office, located at 101 West Jefferson Street, Springfield, IL.
- 9) Notice of Proposal Published in Illinois Register: April 1, 2005; 29 Ill. Reg. 4717
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 1770.20(d), made a nonsubstantive style change.

In Section 1770.230(d), added "[20 ILCS 1605/13.1(g)]" after the period.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreed-upon changes.
- 13) Will these amendments replace any emergency amendments currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 1770.10 was amended to permit the Director of the Department of Revenue to delegate responsibilities under the rules as he or she determines appropriate to facilitate the efficient operation of the lottery, and corrects a Department of the Lottery reference that was overlooked when the rules were recodified pursuant to Executive Order 2003-9.

Section 1770.20 was amended to provide a more detailed address for submission of Lottery applications.

20 ILCS 1605/10.2, as amended by Public Act 93-840, effective 7/30/04, modified the fees paid by applicants for an Illinois Lottery license, current retailers desiring to renew a license, and retailers authorized to sell on-line lottery games. Sections 1770.20 and 1770.110 of the Lottery's general rules were amended accordingly.

Section 1770.160 was amended to codify the Illinois Lottery's longstanding practice of periodically distributing lottery tickets at no charge to eligible consumers as a means of promoting the Lottery. This section has been further amended to implement an audit recommendation that these promotional tickets be identified as such to prohibit resale of unused promotional tickets by lottery retailers.

Sections 1770.180 and 1770.210 were amended to clarify that the Illinois Lottery may distribute logo merchandise of nominal value to consumers as a means of promoting the Lottery, that drawings are required to award such merchandise only if the value of each item exceeds \$25, and that sale of merchandise is an option but not a requirement. Free distribution of Lottery merchandise for promotional purposes is a longstanding practice of the Lottery that predates the specific statutory authority to sell merchandise that Lottery sought and received via Public Act 86-1220.

20 ILCS 1605/13.1, as added by Public Act 93-465, effective 1/1/04, authorized the assignment of Illinois Lottery prizes provided certain conditions were met and a court order entered. Certain aspects of this statutory provision required clarification through rulemaking. The clarifications are reflected in new Section 1770.230 and 1770.Appendix A.

- 16) Information and questions regarding these adopted amendments should be directed to:

Lisa A. Crites, Rules Coordinator
Illinois Department of Revenue
Illinois Lottery Program
101 West Jefferson Street, MC5-950

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62702

217/524-5253 (phone)

217/524-5250 (TDD)

217/524-5235 (fax)

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

DEPARTMENT OF REVENUE

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TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE C: LOTTERY

CHAPTER II: DEPARTMENT OF REVENUE

PART 1770

LOTTERY (GENERAL)

Section

1770.10	Definitions
1770.20	Selection of Lottery Sales Agents; License Application and Fee; On-Line Status
1770.30	Special Licenses
1770.40	License Revocation Without Prior Notice
1770.50	License Revocation, Suspension, Non-Renewal or Denial With Prior Notice
1770.60	Conditions of Licensing
1770.70	License to be Displayed
1770.80	Change of Name, Ownership, or Form of Business Organization
1770.90	Delinquent Financial Obligations
1770.100	Bonding of Agents
1770.110	License Expiration and Renewal
1770.120	Agent Financial Adjustments
1770.130	Lost, Stolen, and Damaged Winning Tickets and other Discrepancies
1770.140	Sales by Department Directly
1770.150	Sales, Inspection, Compensation, and Ticket Purchases
1770.160	Lottery Tickets
1770.170	Lottery Games
1770.180	Drawings
1770.190	Prize Payment, Claiming or Redeeming of Prizes and Transfers to Common School Fund
1770.200	Eligibility to Buy
1770.210	Sale of Promotional Items
1770.220	Priority of Rules
<u>1770.230</u>	<u>Assignment of Lottery Prizes</u>
<u>1770.APPENDIX A</u>	<u>Affidavit</u>

AUTHORITY: Implementing and authorized by Sections 7.1 and 7.2 of the Illinois Lottery Law [20 ILCS 1605/7.1 and 7.2].

SOURCE: Filed by the Lottery Control Board July 11, 1974; amended at 2 Ill. Reg. 17, p. 130, effective April 1, 1978; amended at 4 Ill. Reg. 15, p. 201, effective March 30, 1980; codified as 11 Ill. Adm. Code 1670 at 5 Ill. Reg. 10713; transferred from 11 Ill. Adm. Code 1670 (Lottery

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Control Board) to 11 Ill. Adm. Code 1770 (Department of the Lottery) pursuant to Executive Order 86-2, effective July 1, 1986, at 11 Ill. Reg. 1582; Part repealed, new Part adopted at 13 Ill. Reg. 7908, effective May 16, 1989; amended at 17 Ill. Reg. 18816, effective October 19, 1993; amended at 18 Ill. Reg. 13439, effective August 23, 1994; amended at 19 Ill. Reg. 6810, effective May 8, 1995; amended at 20 Ill. Reg. 15039, effective November 6, 1996; emergency amendment at 22 Ill. Reg. 1964, effective January 15, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 9307, effective May 15, 1998; amended at 22 Ill. Reg. 22298, effective December 14, 1998; amended at 24 Ill. Reg. 16061, effective October 13, 2000; amended at 25 Ill. Reg. 12812, effective September 28, 2001; amended at 26 Ill. Reg. 8562, effective May 30, 2002; recodified from the Department of the Lottery to the Department of Revenue pursuant to Executive Order 2003-9 at 27 Ill. Reg. 16993; amended at 29 Ill. Reg. 13869, effective August 29, 2005.

Section 1770.10 Definitions

Terms defined in the Act have the same meanings when used in this Part. The following words and terms when used in this Part shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Illinois Lottery Law [20 ILCS 1605].

"Agent", "Retailer", "Sales Agent" or "Distributor" means a person and his representative who has been licensed to distribute and/or sell lottery tickets under Sections 9.d, 10 and 10.1 of the Act.

"Applicant" means a person who has applied to the Director for a license to sell lottery tickets to the public.

"Board" means the Lottery Control Board as established by Section 6 of the Act.

"Chairman" means the Chairman of the Lottery Control Board.

"Claim" means to present a purported winning Illinois Lottery ticket to a licensed Lottery Agent or a Lottery regional or administrative office for payment. "Claim" shall additionally mean the process of completing an Illinois Lottery claim form or other documentation as required by this Part.

"Claimant" means a person, as defined in this Section, who presents a winning lottery ticket to a licensed Lottery Agent or a Lottery regional or administrative office for the purpose of receiving a prize.

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"Department" means the Illinois Department of Revenue.

"Director" means the Director of the Department of Revenue or his or her designee.

"Employee of the Department" means an employee of the Department of Revenue.

"Game" means any individual or particular type of lottery authorized by the Department.

"License" means a license, issued by the Director pursuant to Section 9 of the Act, under the authority of the Act, for an agent to sell lottery tickets to the public. Licenses shall be effective for an initial period of two years from the date issued by the Department's lottery licensing unit. Each license thereafter approved for renewal by the Department will be renewed for a two-year term dated from the date of expiration of the initial or last prior renewal term, as may be appropriate.

"Licensed Agent", "Lottery Sales Agent", "Licensed Sales Agent", "Licensed Retailer" or "Lottery Retailer" means a person permitted by a license issued by the Director under the authority of Sections 9.d, 10 and 10.1 of the Act to sell Illinois State Lottery tickets to the public, by an across-the-counter transaction at a specified Point of Sale at a specifically licensed location.

"Lottery" or "State Lottery" means the lottery Lottery established and operated pursuant to the Act.

"On-line status" means the ability of an agent to sell computer-generated lottery Lottery game tickets or shares through a terminal connected to a lottery Lottery central system.

"Person", when used in reference to a sales agent's license, shall be construed to mean and include an individual, association, partnership, corporation, limited liability company or partnership, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, or any other person acting in a fiduciary or representative capacity, who is appointed by a court, or any other combination of individuals. "Person" includes any department, commission, agency or instrumentality of the State, including the Department, and also including any county, city, village, or township and any agency and instrumentality thereof.

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"Person", when used in the context of a prize claim, shall be construed to mean and include an individual; a group of individuals; a partnership or club; a limited partnership, if registered prior to the date the prize was won; a corporation, if incorporated prior to the date the prize was won; a limited liability company, if registered prior to the date the prize was won; a revocable living trust, provided the prize winner is the initial trustee; an irrevocable trust, if the trust agreement was executed prior to the date the prize was won, and provided all beneficiaries of the trust are named therein; a charitable organization, if registered prior to the date the prize was won; an estate; or a governmental entity other than the Department of ~~Revenue~~the Lottery. Prize claims by any such "persons" are subject to eligibility requirements set forth in the Act, this Part, or game rules.

"Point of Sale" means the physical location where a licensed agent is authorized to conduct the sale of lottery tickets to the public.

"Prize" means any award, financial or otherwise, awarded to a ticket holder pursuant to the rules of the lottery. In determining whether a winning lottery ticket may be redeemed for cash by a lottery retailer ~~Lottery Retailer~~ or must be presented to a Department office for payment, and whether a prize may be claimed in a group name or must be claimed by an individual group member, "prize" means the verified prize amount, less the dollar amount of the wager, in accordance with federal tax regulations.

"Redeem" means to surrender a winning Illinois Lottery ticket to a lottery retailer ~~Lottery Retailer~~ for immediate cash payment of the prize, in accordance with Section 1770.190 of this Part.

"Related terminal" means any player activated machine or any agent operated terminal in which an owner of an agent location has 50% or greater interest.

"Secretary" means the Secretary of the Lottery Control Board.

"Service" means the mailing of any notice required by the Act or this Part by certified mail, return receipt requested. Service shall be deemed complete if the notice is returned undelivered or unclaimed when mailed, postage prepaid, to the intended recipient's last known address as disclosed in the Department's records, or if 30 days have elapsed from the date of mailing to such address with no return of the item.

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"Special License" means a license issued by the Director limited in geographic scope and/or duration of validity, pursuant to Section 1770.30 of this Part.

"State Lottery Fund" means the special fund created in the State Treasury by Section 20 of the Act, in which all revenues received by the State Lottery, as defined and limited by Section 20 of the Act, are deposited.

"Ticket" means a lottery ticket or share issued by the Department for sale to the general public.

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

Section 1770.20 Selection of Lottery Sales Agents; License Application and Fee; On-Line Status

- a) The Director shall license as ~~sales agents~~Sales Agents, persons engaged in business activity dealing with the public provided, however, that the sole proprietors, partners, corporate officers or principals of an applicant must be 18 years of age or older to be eligible to apply for a license. The total number of ~~sales agents~~Sales Agents shall be sufficient to assure that lottery products are conveniently available to the public throughout the State, consistent with the constraints of the Department's budget. Any person interested in obtaining a license as a ~~sales agent~~Sales Agent, must first fill out an application with the Department, on such forms as may be provided by the Department. The Department will have a representative meet with the applicant to discuss the responsibilities of selling lottery products, and gather information concerning the applicant and his business establishment concerning the factors listed below. The Director shall give careful consideration to the following factors in selecting as ~~sales agents~~Sales Agents those persons which one may expect to provide a high level of sales volume of lottery products, proper security for the lottery equipment, tickets and money, and a good public image for the State's lottery products.
- 1) The credit worthiness and financial responsibility of the applicant as disclosed by standard credit reporting services, the records of the State and such other credible information bearing upon the credit worthiness of the applicant as may be brought to the attention of the Director.
 - 2) The criminal history and tax status of the applicant as disclosed in the application or in records of the State.

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- 3) The physical security of the applicant's establishment in terms of the physical structure and design of the applicant's facilities as it would relate to the placement of lottery equipment, the sale of lottery products and the storage of lottery receipts.
 - 4) The public accessibility of applicant's place of business or activity, including accessibility from roads, major highways, parking facilities, public transit routes, accessibility by the disabled, proximity of pedestrian traffic, hours of operation of applicant's business, and the cleanliness, attractiveness and physical security of the premises.
 - 5) The number of existing lottery sales licenses in the vicinity.
 - 6) The nature of the applicant's business and the volume of the applicant's sales from his regular business in order to assure that the sale of lottery products will be ancillary to the applicant's regular business.
 - 7) The level of anticipated or projected sales from the general area in which the applicant's business is located taking into consideration the demographics of the neighborhood or locality, the proximity of the location to population centers and the average sales for other comparable agents.
 - 8) The character of the applicant and his or her reputation for honesty and integrity in the community.
 - 9) The veracity of the information supplied in the license application.
 - 10) The merchandising skills and business experience of the applicant, including the tenure of applicant's business at the proposed location.
 - 11) The applicant may provide any information relating to the above listed factors to the Department's representative at the time of the site visit or may include any information relating to these factors at the time of submission of the application.
- b) The Director shall make available forms for application for lottery sales licensing. Each license application shall be accompanied by a non-refundable ~~\$50~~ \$10 application fee, which application and fee should be mailed or delivered to the

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Office of the Director located at:

Illinois Department of Revenue
Lottery Licensing Unit
101 West Jefferson Street, [MC5-940](#)
Springfield, Illinois 62794-9015

- c) The license fee described in subsection (b) will be waived by the Department if the period of the license does not exceed 30 days.
- d) The Director may grant a licensed ~~sales agent~~[Sales Agent](#) on-line status based upon an evaluation conducted by an employee of the Department. The evaluation will include, but shall not be limited to:
- 1) Performance as an instant ~~sales agent~~[Sales Agent](#), including sales volume, settlement practices and compliance with Department procedures;
 - 2) Financial responsibility;
 - 3) Proximity to existing on-line ~~sales agents~~[Sales Agents](#);
 - 4) Ability to pay valid winning tickets;
 - 5) Days and hours of operation;
 - 6) Accessibility of the ~~sales agent's~~ [Sales Agent's](#) place of business, including available parking, proximity of public transit stops and accessibility by the disabled; and
 - 7) Anticipated volume of on-line sales.
- e) *Each lottery licensee granted on-line status pursuant to the Department's rules must pay a fee of \$10 per week as partial reimbursement for telecommunications charges incurred by the Department in providing access to the lottery's on-line gaming system. [20 ILCS 1605/10.2]*

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

Section 1770.110 License Expiration and Renewal

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All licenses issued by the Department pursuant to this Act shall be valid for a period not to exceed two years after issuance unless sooner revoked, cancelled or suspended. The license may be terminated before the expiration date by the Director in accordance with this Part. To be eligible for license renewal, an agent must submit an updated application package or renewal form, as prescribed by the Department, along with a check or money order in the amount of \$25. If no check or money order is included with a renewing retailer's application, the Department reserves the right to withdraw the sum of \$25 from the retailer's lottery account.

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

Section 1770.160 Lottery Tickets

- a) The Director is authorized to prepare for sale to the public such lottery tickets as may be appropriate for implementation of the lottery games offered, from time to time, by the Department, or to offer lottery tickets at no charge to consumers 18 years of age or older as a promotional tool.
- b) Each lottery ticket shall contain the price of the ticket, the drawing date if appropriate, and such unique identification numbers or symbols and such other information as the Director may deem appropriate for security and marketing purposes. If a lottery ticket is being offered at no charge in connection with promotional activities of the Department, the ticket will be stamped with the words "not for sale" or words of similar import.
- c) Any unsigned lottery ticket issued by the Director is a bearer instrument and shall be treated as such until a name is imprinted or placed upon the rear portion of the lottery ticket in an area designated for "Name". Once a name is placed on the rear of ~~the said~~-ticket in the place designated ~~for that purpose~~therefor, the person whose name appears in that area shall be the owner of ~~the said~~-ticket and shall be entitled to any prize attributable ~~to that ticket~~thereto, subject to the provisions of subsection (d) of this Section.
- d) In the event an otherwise valid ticket is submitted as a claim for payment, and the Department is put on notice prior to payment of ~~the said~~-claim that ownership of the ticket is disputed by an adverse claimant alleging fraud, theft, loss, conversion or any other misappropriation of the ticket by the claimant of record, the Department may withhold payment of the claim for a period of ten working days from and after the working days during which the adverse claim was first communicated by oral or written means to the Department. If a civil action is initiated on behalf of the claimant or adverse claimant in a circuit court of the

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State of Illinois, or equivalent court of any sister state within ten working days from and after the Department has received the notice of adverse claim, the Department shall continue to withhold payment of the prize, or any part ~~of the prize, thereof~~ to the claimant or adverse claimant until an adjudication of the ownership has been rendered by the court, all statutory appeals ~~therefrom~~ have been exhausted and, in the case of a judgment entered by the courts of a sister state, the final order has been registered as a foreign judgment in an Illinois court, and all statutory appeals ~~therefrom~~ have been exhausted, whereupon the Department shall honor the claim of the prevailing party. During the course of any such litigation conducted in the courts of the State of Illinois, the Department may interplead and pay into court the prize or, in the case of an installment prize, such installment or installments as may fall due during the course of litigation. In the event the Department is not notified by written confirmation received by the Department before close of business on the tenth working day from and after receipt of the initial adverse claim by the Department, that a civil lawsuit has been filed as provided ~~in this Section herein~~, the Department shall honor the claim as filed by the claimant who has presented the winning ticket, and will proceed to process the claim for payment without further reference to the adverse claim. If a violation of Illinois criminal law is indicated, the matter shall be referred by the Director to the appropriate law enforcement authorities, and nothing in this Section will be construed to require the Department to take any action or pay any claim pending final disposition of any criminal investigation or proceedings. No interest shall be payable with respect to prize payments made by the Department, its contractor or other agencies authorized to make such payments by direction of the Department.

- e) No claim shall be deemed complete, and no prize shall be awarded with respect to a claim, unless the claimant can and does produce a valid winning ticket to the game and prize claimed. Except as otherwise provided in subsection (d) of this Section or Section 1770.130 of this Part, claims not accompanied by a winning ticket will be rejected. Any claim received by an agent and unaccompanied by a ticket will be forwarded to the Department. Upon receipt of any such claim, the Department shall notify the claimant of the rejection, ~~such notice to be accomplished~~ by certified mail, with notification to be deemed completed if returned undelivered, when mailed to the party's last known address, with proper postage prepaid. Notice of rejected claims will be mailed within ten working days after receipt of the claim by the Department, at its lottery claims validation unit in the Department offices in Springfield, Illinois.

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

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Section 1770.180 Drawings

- a) All drawings utilizing a manual selection process or air-driven or gravity selection equipment shall be open to the public in a manner consistent with game security and facilities requirements and shall utilize such mechanical devices and following such procedures as are established by this Part and the game rule issued by departmental directive.
- b) The Department may award prizes of cash or merchandise as incidental or participation prizes at drawings, ~~atas~~ special events and in connection with promotions. Merchandise prizes of nominal value (e.g., water bottles, t-shirts or coffee mugs) may be distributed to all participants at a drawing, special event or promotional activity. However, cash prizes or merchandise prizes having a value in excess of \$25 per prize shall be awarded pursuant to a random drawing, in accordance with written drawing procedures. ~~Winning entries or winning numbers shall be drawn at random to determine such special prizes according to procedures determined by the Director from time to time and announced in appropriate directives.~~

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

Section 1770.210 ~~Sale of~~ Promotional Items

The Department may purchase and stock, ~~for sale to individuals, not for profit organizations or governmental entities,~~ promotional items bearing the identifying marks of the Illinois Lottery or any of its games. These products may be distributed at no charge to consumers for promotional purposes, to licensed lottery retailers or retailer staff as a sales incentive, or to Department personnel in connection with the performance of official duties. The Department may additionally offer its promotional items for sale to individuals, not-for-profit organizations or government entities, and advertise its products for sale via catalog or other means, including, but not limited to, point of purchase displays at agent locations, direct mail and print advertisements. Purchase orders shall be on forms prescribed by the Department and shall include a certification that the purchaser is qualified under the Act and the items will not be resold for commercial gain. The Department may establish reasonable charges for its promotional items, provided, however, that sales to other State agencies will be at cost.

(Source: Amended at 29 Ill. Reg. 13869, effective August 29, 2005)

Section 1770.230 Assignment of Lottery Prizes

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- a) Contracts of assignment submitted to the Department pursuant to 20 ILCS 1605/13.1 shall be accompanied by a sworn affidavit of the assignee in a form substantially similar to that set forth in Appendix A to this Part.
- b) At its sole discretion, the Department may waive the 30-day advance notice requirement for the initial assignment petition or the final assignment order.
- c) *A court order obtained pursuant to this Section, together with all such prior orders, shall not require the Department to divide any single prize payment among more than 3 different persons, including the prize winner. [20 ILCS 1605/13.1(c)]*
- d) All petitions for assignment of an Illinois Lottery prize shall be accompanied by a check or money order payable to the Department in the amount of \$68, in order to defray the administrative expenses associated with assignments. [20 ILCS 1605/13.1(g)]

(Source: Added at 29 Ill. Reg. 13869, effective August 29, 2005)

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Section 1770.APPENDIX A AffidavitAFFIDAVIT

This Affidavit is submitted by _____ (officer name) _____, on behalf of _____ (company name) _____ ("_____"), in connection with a proposed purchase and sale of certain Illinois Lottery prize payments due _____ (winner's name) _____, ("Seller").

1. My name is _____ I am currently employed by _____ (company name) _____ as _____ (title) _____, and have been employed in such capacity at all times relative to this matter. I have personal knowledge of all of the facts contained herein and am competent to testify in support of the facts stated in this affidavit. [OR I make the following representations based upon information and belief.]
2. Prior to Seller's execution of a written purchase and sale agreement with _____ (company name) _____, _____ (company name) _____, through its employees, contractors and/or counsel, had contact with Seller (and/or Seller's legal counsel and/or financial advisors) through various written, oral or telephonic communications. A summary of those contacts follows (include names, dates, methods and nature of contacts):
3. As of the date of this affidavit, the following lawsuits, claims and legal actions have been filed against _____ (company name) _____ and/or its affiliated entities by lottery winners:

(Include brief case summary as well as case name, number and jurisdiction.)
(Address winners of any lottery, not just Illinois.)
(Address lawsuits, claims, etc., filed during the 3-year period immediately preceding the date of the affidavit.)
4. _____ (company name) _____ and/or its affiliated entities is in good standing in its state of domicile and with any other licensing or regulatory agency as may be required in the conduct of its business.
5. The history of _____ (company name) _____ is as follows:
_____ (company name) _____ was organized in _____ (month/year) _____ as a _____ (type of business) _____, having its principal place of business as _____ (city/state) _____, and has operated continuously since that date. (If the type of business organization, principal place of business or other key company information has changed since the company's inception, please include that

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information as well.)

6. _____ (company name) _____ engages in the business of

7. _____ (company name) _____ 's privacy and non-harassment policies are as follows:

(Attach as exhibit if appropriate.)

(Include the company's policies concerning the national do-not-call registry, as it relates to the non-harassment policy.)

_____ (company name) _____ has followed these policies in Illinois.

Name

Date

State of _____)

County of _____)

Signed and sworn to before me this _____ day of _____, 20 _____, by

_____ who is personally known to me (or who produced as identification

_____).

NOTARY PUBLIC

My commission expires: _____

(Seal)

(Source: Added at 29 Ill. Reg. 13869, effective August 29, 2005)

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- 1) Heading of the Part: Public Library Construction Grants
- 2) Code Citation: 23 Ill. Adm. Code 3060
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3060.400	Amended
3060.500	Amended
- 4) Statutory Authority: Implementing Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8]
- 5) Effective date of Amendments: September 1, 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 and available at the Illinois State Library, Gwendolyn Brooks Building, 300 South Second Street, Springfield IL 62701-1796.
- 9) Notice of Proposal Published in the Illinois Register: May 27, 2005; 29 Ill. Reg. 7811
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: In Section 3060.400, in the definition of "Library building consultant", one sentence was revised to read: "An architect licensed to practice in Illinois or a structural or other type of engineer, depending on the scope of work, licensed to practice in Illinois, with prior experience in at least one library construction project, may also be a library building consultant."

In Section 3060.500, the word "only" after "2006" was deleted.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter from JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No

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- 15) A Complete Description of the Subjects and Issues Involved: In Section 3060.400, the definition of "library building consultant" is being expanded to allow an architect licensed in Illinois or structural or engineer, depending on the scope of the project, licensed in Illinois, with prior experience in at least one public library construction project, to serve as a building consultant. This is appropriate in remodeling projects that involve work such as accessibility to the disabled, HVAC systems or wiring for technology that does not impact library service patterns. This will result in a cost savings to a library involved in a project since it will not have to retain the services of both a building consultant and an architect or engineer. In Section 3060.500, the grant funding priority for FY 2006 will be given to remodeling for accessibility and mini-grants.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
Springfield, IL 62701-1796

217-558-4185; jnatale@ilsos.net

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATEPART 3060
PUBLIC LIBRARY CONSTRUCTION GRANTS

SUBPART A: INTRODUCTION

Section	
3060.100	Program Purpose
3060.200	Duty to Administer
3060.400	Definitions

SUBPART B: GRANT APPLICATION

Section	
3060.500	Priorities in Library Grant Construction Proposals
3060.600	Grant Funding Limitations
3060.700	The Chicago Public Library Branches
3060.800	Grant Application Procedure
3060.900	Requirements and Conditions of Grant Funds
3060.1000	Remodeling for Accessibility
3060.1050	Shared Use Facilities
3060.1100	Disbursement of Grant Funds of \$50,000 or more
3060.1110	Disbursement of Grant Funds of \$50,000 or less

SUBPART C: APPEAL PROCEDURE

Section	
3060.2000	Appeal Procedure

3060.APPENDIX A EDA Qualified Areas (Repealed)

AUTHORITY: Implementing Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8].

SOURCE: Emergency rules adopted and codified at 7 Ill. Reg. 2017, effective January 28, 1983, for a maximum of 150 days; emergency expired June 27, 1983; adopted at 8 Ill. Reg. 2510,

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effective February 10, 1984; Part repealed, new Part adopted by emergency action at 9 Ill. Reg. 4560, effective March 20, 1985, for a maximum of 150 days; emergency expired August 17, 1985; Part repealed, new Part adopted at 9 Ill. Reg. 15004, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 17885, effective November 4, 1985, for a maximum of 150 days; emergency expired April 3, 1986; amended at 10 Ill. Reg. 20002, effective November 19, 1986; amended at 12 Ill. Reg. 11264, effective July 1, 1988; emergency amendment at 17 Ill. Reg. 18687, effective October 12, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 4996, effective March 14, 1994; amended at 19 Ill. Reg. 12493, effective August 22, 1995; amended at 20 Ill. Reg. 13078, effective September 20, 1996; emergency amendment at 20 Ill. Reg. 15081, effective November 7, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 4981, effective April 3, 1997; amended at 23 Ill. Reg. 12717, effective October 4, 1999; amended at 25 Ill. Reg. 8352, effective July 1, 2001; amended at 26 Ill. Reg. 12014, effective August 1, 2002; amended at 27 Ill. Reg. 17089, effective November 1, 2003; amended at 28 Ill. Reg. 15607, effective December 1, 2004; amended at 29 Ill. Reg. 13885, effective September 1, 2005.

SUBPART A: INTRODUCTION

Section 3060.400 Definitions

For the purposes of this Part:

"Act" means the Illinois Library System Act [75 ILCS 10].

"Application round" means the period in which applications for grants are available to prospective applicants and completed applications are reviewed and grants awarded as indicated in Section 3060.100 of this Part.

"Appropriation" means the amount of funds actually approved by the General Assembly for a particular fiscal year and allocated to fund the construction grant program under Section 8 of the Illinois Library System Act.

"Audit" means a report of financial compliance of a construction grant project by a certified public accountant.

"Construction" includes, but is not limited to:

The construction of new public library and library systems buildings.

The acquisition, expansion, remodeling and/or alteration of existing

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buildings.

The purchase of initial equipment for new buildings or existing buildings which are being expanded, remodeled, or altered, under this grant.

Any combination of such activities (including architect's fees and the cost of the site if acquired in the last 2 years).

"Conversion" means converting a building currently not used as a library into a public library facility.

"Equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and all other items necessary for the functioning of a particular facility as a library or as a library system facility. By way of illustration, "equipment" includes, for example, fixtures, furnishings, shelving, and carpeting. "Equipment" does not include, for example, books, periodicals, films, or recordings.

"Intersystem reciprocal borrowing" means reciprocal borrowing transactions involving a lending library and a patron registered as a borrower at a library in another system.

"Library" means a tax-supported public library within an Illinois Library System. "Library" also means a branch library of a main library facility.

"Library building consultant" refers to an individual, chosen by the applicant library, with a Master's degree in library science from a library school accredited by the American Library Association with prior experience in at least one library construction project. An architect licensed to practice in Illinois or a structural or other type of engineer, depending on the scope of work, licensed to practice in Illinois, with prior experience in at least one library construction project, may also be a library building consultant. The architect or engineer may be retained for other services by the applicant library.

~~"Library building consultant" refers to an individual, chosen by the library, with a Master's degree in library science from a library school accredited by the American Library Association; and prior experience in at least one library construction project.~~

"Library system" means an organization defined at Section 2 of the Library

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System Act.

"Local matching funds" means general funds, securities, general revenue bonds, tax levies, mortgages and locally generated monies. Local matching funds do not include any pledges as defined in this Part, and any funds from the State of Illinois, or from the federal government or from collateralized pledges.

"Mini-grants" means projects to enable public libraries with limited funds, as defined in this Section, to remodel or refurbish the library.

"Pledge" means a non-collateralized offer or guarantee in writing of a specified dollar amount as part of the local matching funds for a construction project.

"Political unit" refers to the local governing authority.

"Public libraries with limited funds" refers to public libraries which would have received an income of less than \$10 per capita in the preceding fiscal year by using a formula whereby the library's equalized assessed valuation is multiplied by .13% and divided by the population of the library's service area.

"Shared use facility" means a building occupied by a public library with a school or another entity that is open to the public and complements the concept of public library service.

"State fiscal year" means the period from July 1 through June 30.

"Technology wiring" means the installation of wiring to allow for the transmission of electronic data.

(Source: Amended at 29 Ill. Reg. 13885, effective September 1, 2005)

SUBPART B: GRANT APPLICATION

Section 3060.500 Priorities in Library Grant Construction Proposals

- a) Library grant funds for library building construction in any one application round will be awarded according to the following priorities:
 - 1) Remodeling for accessibility with conditions as stated in subsection (c) of this Section.

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- 2) A maximum of \$1 million and no less than 10% of available funding in a fiscal year will be allocated for mini-grants for public libraries.
 - 3) Projects involving new construction, additions to and/or remodeling of existing buildings, energy conservation projects, conversions, technology wiring and renovation projects, including projects involving shared use of public facilities.
- b) The cost of a parking lot can be included in the total project cost funded for remodeling for accessibility projects, but grant funds will not be allocated solely for a parking lot project, unless it is for accessibility for the disabled (ramps, curbs, doors, etc.).
 - c) In the event that funds are not sufficient to meet the priorities of this Part, the State Librarian may determine the priorities upon the funding available. Due to insufficient funding for this program, for fiscal year ~~2006~~~~2005~~^{only}, grant priority shall be given to remodeling for accessibility and mini-grants (as indicated in Section 3060.100(a) and (c) of this Part), except as otherwise provided by Section 3060.600(e).

(Source: Amended at 29 Ill. Reg. 13885, effective September 1, 2005)

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Number: 1040.35 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: September 1, 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: May 13, 2005; 29 Ill. Reg. 6884
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Technical nonsubstantive revisions/corrections to the original proposal were made according to recommendations made by JCAR in its "Identical First Notice Line Numbered Version" received by the Department of Administrative Hearings on or about May 10, 2005.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
1040.32	Amend	29 Ill. Reg. 5933; April 29, 2005
1040.109	New Section	29 Ill. Reg. 5933; April 29, 2005

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- 15) Summary and Purpose of Amendment: The amended section provides for the “pre-conviction” suspension or revocation of a person who has been charged with a serious traffic offense (one of the offenses recited in the rule) and which offense also involved or resulted in great bodily harm to, or the death of, another person. The rule provides that the Secretary of State may take action only when the Secretary has sufficient evidence to believe that the person committed the named offenses. The rule defines “sufficient evidence” and “great bodily harm”. The rule states the procedure to be followed by the Secretary of State in taking action against the driving privileges of the person charged with the offense, and what actions follow after a disposition of the charges in the circuit court.

This rule has not been amended since its original promulgation in July 1994. This rulemaking seeks to update the rule in light of changes in the Illinois Vehicle Code and Criminal Code, and to clarify or state more precisely the intent of the terms and phrases defined in the rule.

Note that this is the same justification/description recited in the Notice of Proposed Amendment.

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

Marc Christopher Loro, Legal Advisor
Office of the Secretary of State
Department of Administrative Hearings
200 Howlett Building
Springfield, Illinois 62756

(217) 785-8245
Fax: (217) 782-2192
mloro@ilsos.net

- 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 STATE

PART 1040

CANCELLATION, REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

Section

1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30	3 or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35	Commission of an Offense Requiring Mandatory Revocation or Discretionary Suspension or Revocation Upon Conviction, <u>and Suspension or Revocation Upon a Local Ordinance Conviction</u>
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System
1040.80	Cancellation of Driver's License Upon Issuance of a Handicapped Identification

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	Card
1040.100	Rescissions
1040.101	Reinstatement Fees
1040.102	Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
1040.105	Suspension for 5 or More Tollway Violations and/or Evasions
1040.107	Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
1040.108	Suspension for Failure to Make Report of Vehicle Accident Violations
1040.110	Bribery

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at

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21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective September 3, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005.

Section 1040.35 Administrative Revocation for Commission of an Offense Requiring Mandatory Revocation ~~or Discretionary Suspension or Revocation~~ Upon Conviction, and Suspension or Revocation Based Upon a Local Ordinance Conviction

- a) Local ordinance conviction. A person who has been convicted of a local ordinance violation which is similar to any of those offenses in Section 6-205 ~~and~~ 6-206 of the Illinois Vehicle Code (IVC) [625 ILCS 5/6-205 and 6-206] shall have his/her driving privileges revoked or suspended in the same manner as if he/she had been convicted of an offense contained within the Illinois Vehicle Code. An offense would be similar if the same elements were necessary to prove a local ordinance offense as are necessary to prove the offense as stated in the Illinois Vehicle Code.
- b) Administrative Revocation
- 1) When the Secretary of State has received sufficient evidence that a person has committed one or more of the following offenses or similar provisions of a local ordinance and these offenses, currently awaiting court disposition, resulted in great bodily harm ~~serious bodily injury~~ or death, the driving record of the individual shall be reviewed for possible driver's license revocation by the Department of Driver Services.
- A)H) Driving under the influence of alcohol, other drugs or a combination thereof. See Section 11-501 of the IVC [625 ILCS 5/11-501];

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- ~~B)2) Manslaughter or reckless-Reckless~~ homicide resulting from the operation of a motor vehicle. See 720 ILCS 5/9-3;
- ~~C)3)~~ Leaving the scene of a traffic accident involving death or personal injury. See Section 11-401 of the IVC [625 ILCS 5/11-401];
- ~~D)4)~~ Drag racing. See Section 11-504 of the IVC [625 ILCS 5/11-504];
- ~~E)~~ Aggravated reckless driving. See Section 11-503(c) of the IVC [625 ILCS 5/11-503];
- ~~F)~~ Any felony under the laws of this or any other State or the federal government in which a motor vehicle was an instrument of the offense. See Section 6-205(a)(3) of the IVC [625 ILCS 5/6-205].
- ~~e)~~ When the Secretary of State has received sufficient evidence that a person has been convicted of a provision of a local ordinance which is similar to any of those offenses in Section 6-206 of the Illinois Vehicle Code that results in a suspension, he/she shall have his/her driving privileges suspended in the same manner as if he/she had been convicted of an offense contained within the Illinois Vehicle Code.
- ~~2)d)~~ In determining whether ~~or not~~ action should be taken, the driving record and other sufficient evidence showing that the person has committed such an offense shall be examined. "Sufficient evidence" shall be defined as copies of court documents showing the person has been charged with one or more of the named offenses in subsection (b)(1) of this Section and:
- ~~1)~~ copies of court documents showing the charging or conviction of a person for one or more of the named offenses in subsection (b) of this Section and Section 6-206 of the Illinois Vehicle Code [625 ILCS 5/6-206]; or
- ~~A)2)~~ documentation or copies of documentation, transcripts of coroner's ~~activities~~proceedings describing an incident where ~~serious bodily injury~~great bodily harm or death resulted from a motor vehicle accident where one or more of the named offenses in subsection (b)(1) of this Section was charged; or
- ~~B)3)~~ statements~~affidavits~~ of eye witnesses and others with first hand

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knowledge concerning the matter ~~that~~which indicate that ~~great bodily~~serious bodily injury harm or death resulted from a motor vehicle accident where one or more of the named offenses in subsection (b)(1) of this Section was charged; or

~~C)4)~~ any other competent evidence. Examples of what would constitute other competent evidence include but are not limited to laboratory reports, accident reports and other documentation deemed important and probative by the state's ~~attorney~~attorneys.

~~3)e)~~ ~~This~~Such information shall be provided with a letter of transmittal from the appropriate state's ~~attorney~~attorneys.

~~4)f)~~ ~~"Great bodily harm"~~"Serious bodily injury" shall include but not be limited to any of the following~~be defined as:~~

~~A)1)~~ bodily injury ~~that~~which involves a substantial risk of death; ~~or~~

~~B)2)~~ unconsciousness; ~~or~~

~~C)3)~~ extreme physical pain; ~~or~~

~~D)4)~~ protracted ~~or permanent~~and obvious disfigurement; ~~or~~

~~E)5)~~ protracted ~~or permanent~~ loss or impairment of the function of a bodily member, organ, or mental faculty;~~:-~~

~~F)~~ bone fractures;

~~G)~~ distorted extremity or extremities;

~~H)~~ severely bleeding wound.

~~5)g)~~ If sufficient evidence is received from the ~~state's attorney~~State's Attorney and indicates that a person has committed one or more of the named offenses in subsection (b)(1) of this Section, and that these offenses, currently awaiting court disposition, involved a motor vehicle accident ~~that~~which caused ~~great bodily harm~~serious bodily injury or death, the driving privileges of the individual shall be revoked.

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- ~~6)h)~~ If the individual, whose driving privileges have been revoked under this Section, is adjudicated "guilty" by the court system, the revocation previously entered on his/her driving record in accordance with this Section, shall stand. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~7)i)~~ If the individual, whose driving privileges have been revoked under this Section, is adjudicated "not guilty" by the court system, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~8)j)~~ If the individual, whose driving privileges have been revoked under this Section, is granted a disposition of "court supervision" by the court system, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~9)k)~~ If the charges against an individual, whose driving privileges have been revoked under this Section, are reduced or altered in any manner ~~so such~~ that the ~~offenses~~offense(s) for which the individual is convicted ~~do not require~~is not a mandatory revocation ~~offense~~ under Section 6-205 of the Illinois Vehicle Code, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~c)l)~~ **Administrative Hearing.** An individual, whose driving privileges have been revoked or suspended under this Section, may request an administrative hearing pursuant to [Section 2-118 of the IVC \[625 ILCS 5/2-118\]](#) and 92 Ill. Adm. Code 1001.

(Source: Amended at 29 Ill. Reg. 13892, effective September 1, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Duck, Goose and Coot Hunting
- 2) Code Citation: 17 Ill. Adm. Code 590
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
590.10	Amendment
590.15	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20).
- 5) Effective Date of Emergency Amendments: August 30, 2005
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: These emergency amendments will expire upon adoption of proposed amendments which are currently on First Notice. The Department anticipates they will be adopted by October 31, 2005.
- 7) Date filed with the Index Department: August 26, 2005
- 8) A copy of the Emergency Amendments, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Reason for Emergency: The Department filed Proposed Amendments to this Part, however, the Proposed Amendments are currently on First Notice and Emergency Amendments are necessary to implement regulations prior to the September 1, 2005, opening date of the first Canada goose season.
- 10) A Complete Description of the Subjects and Issues Involved:

Section 590.10 - Recent changes in federal waterfowl hunting regulations have authorized several new non-toxic shot types for waterfowl hunting. These Emergency Amendments are necessary to clarify which shot types are legal and to impose maximum shot types allowed for hunter safety.

Section 590.15 - Language currently allows persons to enter the drawing for waterfowl blinds who do not plan to hunt or persons who are not eligible to hunt (such as persons

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NOTICE OF EMERGENCY AMENDMENTS

who have their hunting license suspended or are prohibited from possessing a firearm due to a conviction of State or Federal Law). If these persons are successful in the drawing, they give their permit to another person who was unsuccessful in the hunt. These Emergency Amendments will ensure that all hunters entering drawings for waterfowl blinds are eligible to hunt.

- 11) Are there any Proposed Amendments to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
590.10	Amendment	29 Ill. Reg. 11729, July 29, 2005
590.15	Amendment	29 Ill. Reg. 11729, July 29, 2005

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

- 13) Information and questions regarding these Emergency Amendments shall be directed to:

Jack Price, Legal Counsel
 Department of Natural Resources
 One Natural Resources Way
 Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 590
DUCK, GOOSE AND COOT HUNTING

Section

590.10 Statewide Regulations

EMERGENCY

590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50

EMERGENCY

590.20 Permit Controlled Department Sites Only – Duck, Goose and Coot Hunting

590.25 Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)

590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)

590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)

590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting

590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting

590.60 Various Other Department Sites – Duck, Goose and Coot Hunting

590.70 Ohio River

590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

590.EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10] and Migratory Bird Hunting (50 CFR 20).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; preemptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill.

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NOTICE OF EMERGENCY AMENDMENTS

Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective December 3, 1998; emergency amendment at 23 Ill. Reg. 3092, effective March 10, 1999, for a maximum of 150 days; emergency expired August 6, 1999; amended at 23 Ill. Reg. 11195, effective August 26, 1999; emergency amendment at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days; emergency expired May 10, 2000; amended at 24 Ill. Reg. 12517, effective August 7, 2000; amended at 25 Ill. Reg. 14131, effective October 22, 2001; amended at 26 Ill. Reg. 16238, effective October 18, 2002; amended at 27 Ill. Reg. 15409, effective September 18, 2003; amended at 28 Ill. Reg. 13562, effective September 24, 2004;

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amended at 29 Ill. Reg. 9654, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13900, effective August 30, 2005, for a maximum of 150 days.

Section 590.10 Statewide Regulations**EMERGENCY**

- a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], *it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 USC 703-711), the "Migratory Bird Hunting Stamp Act" (16 USC 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20 and 21) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).*
- b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this Part, unless federal regulations are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33), except that violation of Section 2.33(g), (i), (o), (p), (y) and (cc) are Class A misdemeanors with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties.
- c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).
- d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations. Violation is a petty offense (see 520 ILCS 5/2.18-1).
- e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than number T steel; number BBB bismuth, Ultrashok High Density, or Hevi-Steel; number BB tungsten/iron, tungsten/matrix (Impact), or tungsten/polymer; number B Hevi-Shot, tungsten/bronze/iron (TBI), Xtended Range Hi-Density, or Dead Coyote; number 1 Silvex or Hevi-13; or number 3 Heavyweight tungsten-iron (HEVI steel) BBB, bismuth BBB, tungsten-iron BB, tungsten-polymer BB, tungsten-matrix BB, tungsten-bronze-iron (TBI) BB, tungsten-nickel-iron (HEVI-SHOT) B or tungsten-tin-bismuth (SILVEX) 1 when attempting to take waterfowl. Violation is a petty offense (see 520 ILCS 5/2.18-1).

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- f) **Emergency Closure**
The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis. Hunting Canada Geese after the season is closed is a Class B misdemeanor (see 520 ILCS 5/2.18). Possession of freshly killed wild geese during the closed season is a Class A misdemeanor (see 520 ILCS 5/2.33(cc)).
- g) **Closed Areas**
Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted. Violation is a petty offense (see 520 ILCS 5/2.20).
- h) **Commercial Migratory Waterfowl Hunting Area Permits**
- 1) The holder of a permit in the counties of Alexander, Jackson, Union and Williamson shall forward information on harvest and hunters to the Department, by phone and on forms furnished by the Department, at times required by the Department. The holder of a permit in any other county shall forward information on harvest and hunters to the Department on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Permit holders are required to retain a copy of their harvest records for at least 2 years after expiration of their permit. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years. Violation is a petty offense (see 520 ILCS 5/3.6).
 - 2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that no more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8).
 - 3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.

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NOTICE OF EMERGENCY AMENDMENTS

- i) Waterfowl Hunting Zones:
- 1) North Zone – That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.
 - 2) Northern Illinois Quota Zone – DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.
 - 3) Central Zone – That portion of the State south of the Northern Zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.
 - 4) Central Illinois Quota Zone – Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.
 - 5) South Zone – From the southern boundary of the Central Zone south to the remainder of the State.
 - 6) Northeastern Illinois Canada Goose Zone – All lands and waters in the counties of Cook, DuPage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.
 - 7) Southern Illinois Quota Zone – Alexander, Union, Williamson, and Jackson Counties.
- j) No person during the open season shall take or attempt to take wild geese prior to ½ hour before sunrise nor after sunset. In the Southern Illinois Quota Zone (SIQZ), no person shall take or attempt to take wild geese after the hour of 3:00 p.m.; except, during the last 3 days of the Canada goose season and during any goose seasons that occur after the regular Canada goose season and during any

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Canada goose season set in September, hunting hours in the SIQZ shall close at statewide closing time. During special light goose seasons as indicated in subsection (n), statewide hunting hours shall be ½ hour before sunrise to ½ hour after sunset daily. Hunting prior to ½ hour before sunrise during the open season is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after ½ hour after sunset is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after closing hours is a Class B misdemeanor (see 520 ILCS 5/2.18).

- k) On any property where the principal waterfowl harvest is wild geese in the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8(b)(4)).
- l) The following apply in the Northern and Central Illinois Quota Zones only:
 - 1) It is unlawful to hunt Canada geese during seasons after September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.
 - 2) Immediately upon killing a Canada goose that will be taken into possession, hunters must mark with indelible ink, punch or slit the Permit to Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed.
 - 3) Hunters must report their kill on the same calendar day the geese are taken by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.
 - 4) Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).
- m) Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license. Violation is a petty offense (see 520 ILCS 5/3.1(f)).

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- n) If 50 CFR 20 or 21 allows light goose seasons to be liberalized, snow geese, blue geese and Ross' geese may be taken in accordance with federal regulations regarding hunting hours, method of taking and bag limits through March 31.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 13900, effective August 30, 2005, for a maximum of 150 days)

Section 590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50

EMERGENCY

- a) Definitions
- 1) Blind site – A position within 10 feet of numbered stake where blind must be constructed. Sites shall be located and marked by the Department .
 - 2) Blind builder – Person who has been assigned a blind site as a result of the drawing.
 - 3) Blind partner – Persons chosen by the builder to assist in construction and maintenance of the blind and to share its blind claiming and hunting privileges.
 - 4) Drawing – Procedure by which blind sites are assigned.
 - 5) Blind registration card – Card issued by the Department and tacked inside each blind listing names and addresses of blind builders.
 - 6) Complete blind – A blind with all framework and siding constructed and in readiness for use, including final brushing.
 - 7) Hunting party – An individual or group of hunters occupying a single boat, blind, or hunting site.
 - 8) Dog Hide – A compartment or area within or attached to a blind that houses a dog used to retrieve downed waterfowl.
- b) Blind Construction
- 1) Blinds must be at least 4 feet x 8 feet, but no higher than 14 feet from the

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water surface at normal pool level, to the top of the shooting box, sturdy enough to withstand daily usage, and must be maintained in good condition by blind builders throughout the duck season. Blinds shall be numbered and that number shall be visible from the outside of the blinds. Blinds must be placed within 10 feet of assigned Department marked site.

- 2) Blinds built over water must be of platform construction with the platform constructed above normal water conditions or they may be floating blinds.
- 3) Blinds must be completed, including final brushing, 3 weeks in advance of opening date of regular duck season (except at Mississippi River Area Pools 25 and 26 blinds and final brushing must be completed 4 weeks in advance of opening date of regular duck season) after which time the Department shall inspect all blinds and blind sites and issue Blind Registration Cards to those which pass inspection. Blind builders shall not gain access to Redwing Slough/Deer Lake until the day following Labor Day. Blind builders must post Blind Registration Card in the blind prior to the first day of regular duck season. If adverse weather or water conditions make compliance with this rule difficult the site superintendent or the District Wildlife Manager may grant extensions.
- 4) Sites on which blinds have not been built, as well as sites on which blinds of an unsatisfactory quality have been built, shall be reassigned to alternates selected at a drawing or by a first come-first served allocation held on a day publicly announced by the Department. All reassigned blinds must be completed, including final brushing, 7 days prior to the opening date of the duck season on sites posted as being closed to trespassing 7 days prior to regular duck season. At Mississippi River Area Pools 25 and 26 reassigned blinds must be completed by sunset of the Sunday immediately preceding the opening day of regular duck season. On all other sites reassigned blinds must be completed, including final brushing, by the day before the opening day of the regular duck season.
- 5) Not more than 3 persons shall be registered for assignment of any one blind site. Blind builders shall submit partner names on a blind registration form as designated at the site drawing. After the designated time, no changes shall be accepted. As directed by the information sheet available at each site, the registration form must be filled out and returned within 30 days prior to the blind drawing date. Failure to do so shall result in forfeiture of blind.

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- 6) No person shall be allowed to be a blind builder or partner on more than one public waterfowl blind managed by the Department.
 - 7) Boat hides are required, except as noted in Sections 590.40 and 590.50, and must have minimum inside dimensions of 18' x 6', except all blinds allocated and constructed after January 1, 2005 must have minimum dimensions of 18' x 7½'. Boat hides shall be sturdy enough to withstand daily use considering the conditions of the site, and must be maintained in good condition throughout the season, and shall be completed including final brushing by 3 weeks prior to the opening day of duck season, except at Mississippi River Area Pools 25 and 26 boat hides and final brushing must be completed 4 weeks prior to the opening day of duck season; failure to meet these standards shall result in forfeiture of blind site.
 - 8) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds except as indicated in Sections 590.40(a) and (b) and 590.50(a) and (b).
 - 9) Blinds must include a dog hide that is on the same level as the blind. The dog hide can either be incorporated into the blind by providing a hole at floor level that measures at least 20 inches high by 20 inches wide or by providing a separate compartment that is attached to the blind. Hides attached to the blind should have a minimum floor space that measures 2 feet by 2 feet and should be at least 2.5 feet high with 2 openings. One opening should be between the blind and the dog hide, should measure at least 20 inches by 20 inches, and should be constructed at the same level as the blind floor. The water access opening should be at least 20 inches wide and 20 inches high. Hides either within the blind or attached should have an enforced ramp to water level that is at least 15 inches wide with cleats every 12 inches. Openings in the blind must be capable of being closed when not in use.
- c) Use of blinds
- 1) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.

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- 2) No person shall hunt, or attempt to hunt, except from within a registered blind.
 - 3) Persons under 16 years of age shall not hunt, or attempt to hunt, unless accompanied by an adult due to safety factors.
 - 4) Blinds shall not be locked.
 - 5) Claiming or attempting to claim any blind which is legally occupied, and/or harassing, in any manner, the occupants of a blind which has been legally occupied, is unlawful.
 - 6) No person shall fish within 250 yards of an occupied blind within the hunting area.
 - 7) All hunting parties shall hunt over a spread of at least 12 decoys during duck season and Canada goose season. The decoys shall be staked, placed, or floating, be individually visible, be at least 8 inches long, and not be within a boat, blind or container.
 - 8) At sites where a manned check station is in operation, hunters are required to deposit their hunting license and Federal and State Migratory Waterfowl Stamp at the check station while hunting. Persons exempt by law from having a hunting license and an Illinois stamp must deposit their Firearm Owner's Identification Card. Persons under 21 who do not have a card must be accompanied by an adult who has a valid card in his possession.
 - 9) Cutting of vegetation greater than 4 inches d.b.h. will result in loss of the blind for the current allocation period.
- d) Public Drawing
- 1) Time and place for all sites holding drawings shall be publicly announced by the Department.
 - 2) A registrant for a drawing must be at least 16 years of age and possess a current or preceding year's Illinois hunting license, a current or preceding year's Illinois Migratory Waterfowl Stamp and a current ~~or expired (within 12 months prior to the drawing)~~ Firearm Owner's Identification Card

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unless exempted by law. Persons exempted by law from possessing a hunting license or waterfowl stamp must have a valid Firearm Owner's Identification Card. Persons who are under 21 years of age who do not have Firearm Owner's Identification Cards must be accompanied by an adult who has a valid Firearm Owner's Identification Card in his possession at the drawing. In order to be an eligible applicant for the drawing, the participant must not at the time of the drawing have his/her hunting privileges suspended or revoked by the Department or any other jurisdiction. Applicants must be present for the registration and drawing to be eligible for allocation of blind sites.

3) No person is eligible to draw for a waterfowl blind who has had his or her hunting privileges suspended by Illinois or any other state, or is prohibited from possessing a firearm due to a conviction for violation of a State or federal law, or is prohibited from possessing a firearm by action of law regardless of conviction status (such as homeland security, under order of protection, etc.). Any ineligible person who submits an application to draw for a waterfowl blind shall be refused, if known by the drawer at the time to be ineligible, or shall have his or her draw declared void upon discovery of ineligibility by the Department. A refused or voided application shall be referred to the appropriate State's Attorney for possible prosecution under the Criminal Code [720 ILCS 125].

e) Flood Rules

In the event that State managed sites are flooded to the point that public waterfowl blinds cannot be constructed or are no longer usable, the Department, by public announcement and/or posting, may permit waterfowl hunting under one of the following rules:

- 1) If the check station for that site is open, all rules apply, except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site.
- 2) If the check station is not operable, all rules apply except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site. Additionally, rules listed in Section 590.40(b)(1), (2), (3), (4) and (9) shall not be in force. Rules concerning blind claiming as listed in Section 590.50(b) shall apply.
- 3) If blind sites have not been marked and no check station is operable, the

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area will be open to hunting from platform, floating or boat blinds or by walk-in hunting, anywhere on the area except refuges and closed waterfowl rest areas. Preplacement of unattended decoys and/or unoccupied blinds or boat hides do not constitute lawful possession of a hunting site. All hunting parties must remain 200 yards apart and follow normal closing hours for the site.

- 4) In all above flood circumstances, regulations requiring the construction of a separate boat hide and regulations regarding the minimum standards for blind construction shall be suspended for that season.

f) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 13900, effective August 30, 2005, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 13, 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
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

Agriculture

1. Egg and Egg Products Act (8 Ill. Adm. Code 65)
 - First Notice Published: 29 Ill. Reg. 7124 – 5/20/05
 - Expiration of Second Notice: 9/15/05

Education

2. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 29 Ill. Reg. 7891 – 6/3/05
 - Expiration of Second Notice: 9/28/05
3. Certification (23 Ill. Adm. Code 25)
 - First Notice Published: 29 Ill. Reg. 7932 – 6/3/05
 - Expiration of Second Notice: 9/28/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

4. Evaluation of Certified School District Employees in Contractual Continued Service (Repealer) (23 Ill. Adm. Code 50)
 - First Notice Published: 29 Ill. Reg. 8003 – 6/3/05
 - Expiration of Second Notice: 9/28/05
5. Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)
 - First Notice Published: 29 Ill. Reg. 8016 – 6/3/05
 - Expiration of Second Notice: 9/28/05
6. Conservation Education (Repealer) (23 Ill. Adm. Code 251)
 - First Notice Published: 29 Ill. Reg. 8048 – 6/3/05
 - Expiration of Second Notice: 9/28/05
7. Driver Education (23 Ill. Adm. Code 252)
 - First Notice Published: 29 Ill. Reg. 6181 – 5/6/05
 - Expiration of Second Notice: 10/1/05
8. Comprehensive Health Education (Repealer) (23 Ill. Adm. Code 253)
 - First Notice Published: 29 Ill. Reg. 8053 – 6/3/05
 - Expiration of Second Notice: 9/28/05
9. Health Examinations and Immunizations (Repealer) (23 Ill. Adm. Code 625)
 - First notice Published: 29 Ill. Reg. 8062 – 6/3/05
 - Expiration of Second Notice: 9/28/05
10. Staff Development Plans and Programs (Repealer) (23 Ill. Adm. Code 30)
 - First Notice Published: 29 Ill. Reg. 8572 – 6/24/05
 - Expiration of Second Notice: 9/28/05
11. Insurance for Certificated Employees (Repealer) (23 Ill. Adm. Code 56)
 - First Notice Published: 29 Ill. Reg. 8578 – 6/24/05
 - Expiration of Second Notice: 9/28/05
12. Professional Development Block Grant (Repealer) (23 Ill. Adm. Code 160)
 - First Notice Published: 29 Ill. Reg. 8590 – 6/24/05
 - Expiration of Second Notice: 9/28/05
13. Scientific Literacy (Repealer) (23 Ill. Adm. Code 220)
 - First Notice Published: 29 Ill. Reg. 8595 – 6/24/05
 - Expiration of Second Notice: 9/28/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

14. Alcohol and Drug Education Initiative (Repealer) (23 Ill. Adm. Code 225)
 - First Notice Published: 29 Ill. Reg. 8604 – 6/24/05
 - Expiration of Second Notice: 9/28/05
15. Summer School for Remedial Education (Repealer) (23 Ill. Adm. Code 230)
 - First Notice Published: 29 Ill. Reg. 8615 – 6/24/05
 - Expiration of Second Notice: 9/28/05
16. Alternative Learning Opportunities Program (23 Ill. Adm. Code 240)
 - First Notice Published: 29 Ill. Reg. 8621 – 6/24/05
 - Expiration of Second Notice: 9/28/05
17. Urban Education Partnership Program (Repealer) (23 Ill. Adm. Code 245)
 - First Notice Published: 29 Ill. Reg. 8632 – 6/24/05
 - Expiration of Second Notice: 9/28/05
18. Comprehensive Arts Program (Repealer) (23 Ill. Adm. Code 250)
 - First Notice Published: 29 Ill. Reg. 8644 – 6/24/05
 - Expiration of Second Notice: 9/28/05
19. Mathematics and Science Loan Program (Repealer) (23 Ill. Adm. Code 360)
 - First Notice Published: 29 Ill. Reg. 8650 – 6/24/05
 - Expiration of Second Notice: 9/28/05
20. Replacement of Required Rules (23 Ill. Adm. Code 500)
 - First Notice Published: 29 Ill. Reg. 8657 – 6/24/05
 - Expiration of Second Notice: 9/28/05
21. School Technology Program (23 Ill. Adm. Code 575)
 - First Notice Published: 29 Ill. Reg. 8661 – 6/24/05
 - Expiration of Second Notice: 9/28/05
22. Procurement by the State Board of Education (Repealer) (44 Ill. Adm. Code 1100)
 - First Notice Published: 29 Ill. Reg. 5090 – 4/15/05
 - Expiration of Second Notice: 10/9/05
23. Procurement by the State Board of Education (44 Ill. Adm. Code 1105)
 - First Notice Published: 29 Ill. Reg. 5178 – 4/15/05
 - Expiration of Second Notice: 10/9/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

Employment Security

24. Notices, Records, Reports (56 Ill. Adm. Code 2760)
-First Notice Published: 29 Ill. Reg. 6818 – 5/13/05
-Expiration of Second Notice: 10/5/05

Financial and Professional Regulation

25. Residential Mortgage License Act of 1987 (38 Ill. Adm. Code 1050)
-First Notice Published: 29 Ill. Reg. 5183 – 4/15/05
-Expiration of Second Notice: 9/23/05
26. Detection of Deception Examiners Act (68 Ill. Adm. Code 1230)
-First Notice Published: 29 Ill. Reg. 5818 – 4/29/05
-Expiration of Second Notice: 10/11/05
27. Illinois Public Accounting Act (Professional Conduct) (68 Ill. Adm. Code 1430)
-First Notice Published: 29 Ill. Reg. 1480 – 1/28/05
-Expiration of Second Notice: 10/9/05
28. Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)
-First Notice Published: 29 Ill. Reg. 8067 – 6/3/05
-Expiration of Second Notice: 10/2/05
29. Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)
-First Notice Published: 29 Ill. Reg. 8687 – 6/24/05
-Expiration of Second Notice: 10/8/05

Healthcare and Family Services

30. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 29 Ill. Reg. 5881 – 4/29/05
-Expiration of Second Notice: 10/2/05
31. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 29 Ill. Reg. 6213 – 5/6/05
-Expiration of Second Notice: 10/2/05
32. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 29 Ill. Reg. 8500 – 6/17/05
-Expiration of Second Notice: 10/6/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

33. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 29 Ill. Reg. 4679 – 4/1/05
-Expiration of Second Notice: 10/8/05
34. Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)
-First Notice Published: 29 Ill. Reg. 4706 – 4/1/05
-Expiration of Second Notice: 10/8/05
35. Child Support Enforcement (89 Ill. Adm. Code 160)
-First Notice Published: 29 Ill. Reg. 5898 – 4/29/05
-Expiration of Second Notice: 10/2/05
36. Child Support Enforcement (89 Ill. Adm. Code 160)
-First Notice Published: 29 Ill. Reg. 4459 – 3/25/05
-Expiration of Second Notice: 10/2/05

Human Services

37. Child Care (89 Ill. Adm. Code 50)
-First Notice Published: 28 Ill. Reg. 14737 – 11/24/04
-Expiration of Second Notice: 10/10/05

Labor

38. Americans With Disabilities Act Grievance Procedure (4 Ill. Adm. Code 1500)
-First Notice Published: 29 Ill. Reg. 4452 – 3/25/05
-Expiration of Second Notice: 9/21/05

Natural Resources

39. The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)
-First Notice Published: 29 Ill. Reg. 6830 – 5/13/05
-Expiration of Second Notice: 10/8/05
40. Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)
-First Notice Published: 29 Ill. Reg. 7414 – 5/27/05
-Expiration of Second Notice: 10/17/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

Public Health

41. Child Health Examination Code (77 Ill. Adm. Code 665)
 - First Notice Published: 28 Ill. Reg. 15439 – 12/3/04
 - Expiration of Second Notice: 9/14/05
42. Child Health Examination Code (77 Ill. Adm. Code 665)
 - First Notice Published: 29 Ill. Reg. 6848 – 5/13/05
 - Expiration of Second Notice: 9/21/05
43. Vision Screening (77 Ill. Adm. Code 685)
 - First Notice Published: 29 Ill. Reg. 7787 – 5/27/05
 - Expiration of Second Notice: 9/21/05

Racing Board

44. Procedures for License Hearings (11 Ill. Adm. Code 205)
 - First Notice Published: 29 Ill. Reg. 8074 – 6/3/05
 - Expiration of Second Notice: 10/9/05

State Employees' Retirement System

45. The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540)
 - First Notice Published: 29 Ill. Reg. 9311 – 7/1/05
 - Expiration of Second Notice: 9/30/05

State Fire Marshal

46. Policy and Procedures Manual for Fire Protection Personnel (41 Ill. Adm. Code 140)
 - First Notice Published: 29 Ill. Reg. 3069 – 3/4/05
 - Expiration of Second Notice: 10/8/05

EMERGENCY RULEMAKINGS

Healthcare and Family Services

47. Medical Payment (89 Ill. Adm. Code 140)
 - Notice Published: 29 Ill. Reg. 12534 – 8/12/05
48. Hospital Services (89 Ill. Adm. Code 148)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

-Notice Published: 29 Ill. Reg. 12568 – 8/12/05

Human Services

49. Child Care (89 Ill. Adm. Code 50)
-Notice Published: 29 Ill. Reg. 13253 – 8/26/05

Natural Resources

50. White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)
-Notice Published: 29 Ill. Reg. 13025 – 8/19/05
51. White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)
-Notice Published: 29 Ill. Reg. 13032 – 8/19/05

Public Health

52. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
-Notice Published: 29 Ill. Reg. 12640 – 8/12/05

PEREMPTORY RULEMAKING

Central Management Services

53. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 29 Ill. Reg. 13265 – 8/26/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 23, 2005 through August 29, 2005 and have been scheduled for review by the Committee at its September 13, 2005 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
10/6/05	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	6/17/05 29 Ill. Reg. 8500	9/13/05
10/8/05	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	4/1/05 29 Ill. Reg. 4679	9/13/05
10/8/05	<u>Department of Healthcare and Family Services,</u> Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)	4/1/05 29 Ill. Reg. 4706	9/13/05
10/8/05	<u>Office of the State Fire Marshal,</u> Policy and Procedures Manual for Fire Protection Personnel (41 Ill. Adm. Code 140)	3/4/05 29 Ill. Reg. 3069	9/13/05
10/8/05	<u>Department of Financial and Professional Regulation – Division of Professional Regulation,</u> Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)	6/24/05 29 Ill. Reg. 8687	9/13/05
10/8/05	<u>Department of Natural Resources,</u> The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)	5/13/05 29 Ill. Reg. 6830	9/13/05
10/9/05	<u>State Board of Education,</u> Procurement by the State Board of Education (Repealer) (44 Ill.	4/15/05 29 Ill. Reg.	9/13/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

	Adm. Code 1100)	5090	
10/9/05	<u>State Board of Education</u> , Procurement by the State Board of Education (44 Ill. Adm. Code 1105)	4/15/05 29 Ill. Reg. 5178	9/13/05
10/9/05	<u>Illinois Racing Board</u> , Procedures for License Hearings (11 Ill. Adm. Code 205)	6/3/05 29 Ill. Reg. 8074	9/13/05
10/9/05	<u>Department of Financial and Professional Regulation – Division of Professional Regulation</u> , Illinois Public Accounting Act (Professional Conduct) (68 Ill. Adm. Code 1430)	1/28/05 29 Ill. Reg. 1480	9/13/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- 1) Heading of the Part: Optometric Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1320
- 3) Register citation of proposed rulemaking and other pertinent action: 29 Ill. Reg. 13094; August 26, 2005
- 4) Explanation: When DFPR originally proposed this rulemaking for publication in the *Illinois Register*, DFPR included only one Section. DFPR is currently in the process of updating all of its rules to reflect the recodification of its predecessor agencies' rules into DFPR. As this Part was open for proposed amendments, DFPR, in conjunction with JCAR, added other Sections from the Part that needed to be recodified from the former Department of Professional Regulation to DFPR. The notice page list of Sections in the rulemaking inadvertently omitted Section 1320.420.

ILLINOIS RACING BOARD

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Totalizator Operations
- 2) Code Citation: 11 Ill. Adm. Code 433
- 3) The Notice of Proposed Amendment being corrected: 29 Ill. Reg. 13205; August 26, 2005
- 4) The Information being corrected is as follows: In item 14 on the notice page, where it is asked whether there are any other proposed amendments pending in this Part, the answer should be "no".

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.295 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: February 18, 2005; 29 Ill. Reg. 2654
- 5) Reason for the Withdrawal: These amendments were proposed under the former Department of Public Aid pursuant to the State's budget implementation plan for fiscal year 2005 concerning additional funding under Critical Hospital Adjustment Payments (CHAP) for hospitals that qualify as high volume Medicaid providers. However, the fiscal year 2006 budget implementation plan calls for additional rate changes affecting CHAP. An emergency rulemaking at Section 148.295 that reflects all of the required payment changes, effective July 1, 2005, was filed with identical proposed amendments. Therefore, the amendments proposed at 29 Ill. Reg. 2654 are no longer relevant and are being withdrawn.

DEPARTMENT OF REVENUE

NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE
RULES STATEMENT OF RECOMMENDATION TO PROPOSED RULEMAKING

- 1) Heading of the Part: Lottery (General)
- 2) Code Citation: 11 Ill. Adm. Code 1770
- 3) Section Numbers: 1770.20 and 1770.110
- 4) Date Notice of Proposed Amendments Published in the Register: April 1, 2005; 29 Ill. Reg. 4717
- 5) Date JCAR Statement of Recommendation to Proposed Rulemaking Published in the Register: July 29, 2005; 29 Ill. Reg. 12145
- 6) Summary of Action Taken by the Agency: At its meeting on July 12, 2005, the Joint Committee on Administrative Rules recommended that the Department of Revenue implement Public Acts in a more timely manner so that 11 Ill. Adm. Code 1770 accurately depicts the actual fees that lottery license applicants and licensees are required to pay. While the Department began assessing the new statutory fees in 2004, it did not submit proposed rules until April 2005.

The Department of Revenue agrees with the Joint Committee's recommendation and, going forward, the Department will amend its rules in a more timely manner to reflect changes in law, and in particular to ensure that the regulations reflect actual fees charged to Illinois Lottery applicants and licensees.

EXECUTIVE ORDERS**2005-8****EXECUTIVE ORDER CREATING THE GOVERNOR'S COMMISSION ON
DISCRIMINATION AND HATE CRIMES**

WHEREAS, the population and demographic makeup of the State of Illinois makes the appreciation, tolerance and acceptance of diverse cultures imperative;

WHEREAS, no person or group of people should have to live in fear because of their race, ethnicity, culture, sexual orientation or religious beliefs;

WHEREAS, the manifestation of discrimination in the form of violence has a negative impact not only on the victim, but his or her community, and can have a lasting adverse effect on our society;

WHEREAS, stereotypical thinking and biases still plague our society;

WHEREAS, Illinois has a strong tradition of combating discrimination and hate-based violence by statutorily addressing crimes such as aggravated battery, theft, criminal trespassing, disorderly conduct and telephone harassment committed because of the victim's race, color, creed, religion, ancestry, gender, sexual orientation or disability; and

WHEREAS, we must continue to work to build a society that is bias and hate free so that our children are protected against discrimination, punishment and violence that is based on race, ethnicity, color, creed, religious belief, sexual orientation or social status.

THEREFORE, I, Rod R. Blagojevich, order the following:

I. ESTABLISHMENT

There shall be established the Governor's Commission on Discrimination and Hate Crimes.

II. PURPOSE

The purpose of the Commission shall include, but not be limited to, the following:

- a. To work in partnership with community leaders, educators, religious leaders, social service agencies, elected officials and the public to identify and uproot sources of discrimination and bias at the source.
- b. To work with local governments, law enforcement officials including prosecutors, educators and community organizations by assisting with the development of resources, training and information that allows for a swift and efficient response to hate motivated crimes and incidents.
- c. To work with educators throughout Illinois on issues confronting discrimination and hate, teaching acceptance and embracing diversity at academic institutions.
- d. To help ensure that the state's laws addressing discrimination and hate-related violence are widely known and applied correctly to help eradicate and prevent crimes based on discrimination and intolerance.

EXECUTIVE ORDERS**2005-8**

- e. To make recommendations to the Governor and the General Assembly for statutory and programmatic changes necessary to eliminate discrimination and hate-based violence.
- f. To help implement recommendations by working with the Governor's agencies, the General Assembly, the business community, the social service community and other organizations.

III. MEMBERSHIP

- a. The Commission shall consist of a chairperson and at least twenty but not more than thirty additional members, all appointed by the Governor to serve at the pleasure of the Governor.
- b. Members may include, but are not limited to, persons who are active in and knowledgeable about the following areas: law enforcement, the criminal and civil justice system, education, human rights, business and industry, arts and culture, social services and religion.
- c. Members shall serve without compensation, but may be reimbursed for expenses.
- d. The Commission will be provided assistance and necessary staff support services by the Office of the Governor and the agencies of State government involved in the issues to be addressed by it.
- e. The Commission shall submit an annual report to the Governor and the General Assembly by March 30 of each year.

IV. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any State or federal law.

V. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

VI. EFFECTIVE DATE

This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

EXECUTIVE ORDERS

2005-8

Issued by Governor: August 29, 2005.

Filed with Secretary of State: August 29, 2005.

PROCLAMATIONS

2005-251 (Revised)**EMMETT TILL AND MAMIE TILL MOBLEY DAY**

WHEREAS, August 28, 2005 marks the 50th anniversary of the brutal murder of Emmett Till, a Chicago native; and

WHEREAS, while visiting his uncle during the summer of 1955, Emmett Till, only 14, was whisked away in the dead of night by white men who tortured and killed him only because he was an African American; and

WHEREAS, returned to Chicago for burial, Mamie Till Mobley, Emmett Till's mother, insisted the public see what her 14-year-old son's killers did, despite the severe disfigurement of his body. Accordingly, his post-mortem photographs circulated around the country; and

WHEREAS, the effect of Mamie Till Mobley's courageous defiance sent shockwaves of grief and outrage across the nation, and enflamed racial tensions that sparked the Civil Rights Movement to extend equal protection of the law to black men and women; and

WHEREAS, the cruel and selfish slaying of Emmett Till still haunts Americans and continues to inspire social justice today:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 28, 2005 as **EMMETT TILL AND MAMIE TILL MOBLEY DAY** in Illinois in honor and remembrance of this dark day in history, and in recognition of all those that have used this tragic incident to teach others that violence, intolerance, and racial prejudice are the true evils of society and can never be accepted.

Issued by the Governor August 25, 2005.

Filed with the Secretary of State August 25, 2005.

2005-274**LYMPHOMA RESEARCH FOUNDATION DAY AND LYMPHOMATHON DAY**

WHEREAS, lymphoma is a type of cancer that results when abnormal lymphocyte cells are created. These cells can grow in many parts of the body, including the lymph nodes, bone marrow, or spleen. There are two types of cancer of the lymphatic system: Hodgkin's disease and non-Hodgkin's lymphoma; and

WHEREAS, symptoms of lymphoma come in several forms, but are hard to detect because they are generally the same as those of the common cold. A very persistent cold or respiratory infection may be a sign of lymphoma; and

WHEREAS, of the nearly 500,000 Americans that have lymphoma, 332,000 have Non-Hodgkin's lymphoma. Approximately 54,370 new cases are diagnosed and 19,410 Americans die from the disease each year. Treatment for the disease comes in three different manners – chemotherapy, radiation therapy, and biologic therapy. These treatments, or combinations of thereof, can put the cancer in remission for years; and

WHEREAS, approximately 168,000 people with lymphoma have Hodgkin's disease. This form of lymphoma has a much higher survival rate – 84 percent over five years. Each year

PROCLAMATIONS

7,880 new cases are diagnosed and 1,320 Americans die from the disease. Those treated receive some form of chemotherapy or radiation therapy or a combination of the two; and

WHEREAS, the Lymphoma Research Foundation (LRF) was created to seek funding that will help researchers find a cure. The Foundation is the nation's largest organization dedicated to funding lymphoma research. The research done with this funding helps to provide those afflicted by the disease, along with healthcare professionals, with critical information and may someday lead to a cure. To date, LRF has funded over \$24 million for cancer research; and

WHEREAS, the LRF will be hosting LYMPHOMathon, a 5K walk to help raise money for the cause. This walk will begin at Montrose Harbor on Lake Michigan:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 28, 2005 as **LYMPHOMA RESEARCH FOUNDATION DAY and LYMPHOMATHON DAY** in Illinois, and encourage all citizens to join in supporting the search for a cure to this life-threatening disease.

Issued by the Governor August 23, 2005.

Filed by the Secretary of State August 23, 2005.

2005-275**DELTA SIGMA THETA 48TH ANNUAL EBONY FASHION SHOW DAY**

WHEREAS, serving as host now for the 30th consecutive year, the Joliet Area South Suburban Alumnae Chapter of Delta Sigma Theta Sorority, Incorporated, is proud to welcome the 48th Annual Premier Showing of the Ebony Fashion Fair to Illinois on September 7, 2005; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated was founded in 1913 with and emphasis on sisterhood, education and scholarship, public service, economic development and political and international awareness; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated is comprised of over 200,000 women around the world, of which 5,000 are active in the State of Illinois; and

WHEREAS, the Joliet Area South Suburban Alumnae Chapter remains committed to today's youth, and the 48th Annual Ebony Fashion Show will provide scholarships to deserving kids, as well as promote the chapter's continuous involvement within the community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 7, 2005 as **DELTA SIGMA THETA 48th ANNUAL EBONY FASHION SHOW DAY** in Illinois, and encourage all citizens to join in recognizing the continued efforts of this fine organization.

Issued by the Governor August 23, 2005.

Filed by the Secretary of State August 23, 2005.

2005-276**Northwest Water Commission**

PROCLAMATIONS

WHEREAS, the Northwest Water Commission desires to provide Federal Old Age, Survivors, Disability and Health Insurance (Social Security) coverage to its employees, in addition to the simplified employee pension plan; and

WHEREAS, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that each eligible employee who is a participant in the Northwest Water Commission's retirement plan be given the opportunity to register his/her personal choice by written ballot as to whether he/she elects Social Security coverage; and

WHEREAS, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

WHEREAS, I hereby designate the Executive Secretary of the State Employees' Retirement System and the Executive Director of the Northwest Water Commission as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials the authority to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes; to allocate their other duties under this proclamation among themselves; and to delegate such other duties to others as they shall deem appropriate:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim a period of at least 90 days notice between the dates of September 1, 2005 through November 30, 2005 to eligible employees of the Northwest Water Commission that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the Executive Director and the referendum concluded not later than November 30, 2005.

Issued by the Governor August 26, 2006.

Filed with the Secretary of State August 26, 2005.

2005-277**MUSCULAR DYSTROPHY ASSOCIATION MONTH**

WHEREAS, more than one million Americans suffer from neuromuscular diseases, such as muscular dystrophy, amyotrophic lateral sclerosis, myasthenia gravis, and spinal muscular atrophy; and

WHEREAS, the Muscular Dystrophy Association is a voluntary health agency committed to conquering neuromuscular diseases; and

WHEREAS, since its founding in 1950, the Muscular Dystrophy Association has provided comprehensive medical services to tens of thousands of Americans with neuromuscular diseases at more than 200 hospital-affiliated clinics across the country. In Illinois, more than 4,000 families receive medical care at one of eight Muscular Dystrophy Association supported clinics every year; and

PROCLAMATIONS

WHEREAS, the Muscular Dystrophy Association also sponsors research in neuromuscular diseases, raises awareness of their effects, and sends more than 300 Illinois children afflicted by them to Muscular Dystrophy Association summer camps each year at no charge to their families; and

WHEREAS, most of this is done through the financial support of private contributors, and the largest Muscular Dystrophy Association fundraising event is their annual telethon hosted by their national chairman and renowned entertainer, Jerry Lewis; and

WHEREAS, last year, the Muscular Dystrophy Association Telethon raised nearly \$60 million nationally, including approximately \$2 million from Illinois, and hopefully they will raise more during their telethon this year from September 4 to September 5:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2005 as **MUSCULAR DYSTROPHY MONTH** in Illinois, and encourage citizens of the State to support the Muscular Dystrophy Association and their worthy cause to combat neuromuscular diseases.

Issued by the Governor August 26, 2006.

Filed with the Secretary of State August 26, 2005.

2005-278**CARIBBEAN/AFRICAN FESTIVAL DAYS**

WHEREAS, just as the landscapes of America and Illinois are eclectic, so too are its people; and

WHEREAS, our democratic institutions have demonstrated that diverse peoples can pursue their dreams while living together peacefully and building strong communities; and

WHEREAS, this year, Martin's Inter-Culture, the Foss Park District, and the North Chicago Chamber of Commerce will host Caribbean/African Festival Days in Illinois from September 10 to September 11 in North Chicago to bring Americans of different cultures, ethnicities, and nationalities together in celebration of diversity and to promote peace and unity; and

WHEREAS, the Caribbean/African Festival will feature a variety of music, including blues, calypso, gospel, highlife, hip-hop, pop, rap, rock, reggae, rhythm and blues, salsa, and spoken words; and

WHEREAS, the Caribbean/African Festival will also feature exhibitors from around the country who will showcase an assortment of cultural attire, crafts, and food from Africa and the Caribbean:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 10-11, 2005 as caribbean/african festival DAYS in Illinois in support of Caribbean/African Days and in tribute to American multiculturalism.

Issued by the Governor August 26, 2005.

Filed with the Secretary of State August 26, 2005.

2005-279

PROCLAMATIONS

SHAREFEST DAY

WHEREAS, helping those in need is both a moral responsibility and personally rewarding; and

WHEREAS, for the past two years, ShareFest in McLean County of Illinois has brought members from all parts of the community together, including civic organizations, the local media, and religious groups, to help their neighbors in need; and

WHEREAS, ShareFest collects non-perishable food and goods, such as diapers, paper towels, school supplies, and toilet paper, for distribution to McLean County organizations and schools; and

WHEREAS, ShareFest also sponsors service projects, such as landscaping and home repair, with materials donated by the volunteers involved in the projects; and

WHEREAS, additionally, ShareFest conducts a weeklong blood drive that begins the week leading up to the event; and

WHEREAS, this year, as ShareFest celebrates their Third Anniversary from September 9 to September 10, they hope to complete 40 service projects and, with support from State Farm, to collect 750 units of blood; and

WHEREAS, thanks to the kindness and goodwill of Illinois residents throughout McLean County, ShareFest has provided aid and assistance to thousands in the community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 9-10, 2005 as sharefest day in Illinois in recognition and support of ShareFest's service to those in need.

Issued by the Governor August 29, 2005.

Filed with the Secretary of State August 29, 2005.

2005-280**ESTHER O'HALLORAN DAY**

WHEREAS, born September 13, 1898, Esther O'Halloran will celebrate her 107th birthday this year; and

WHEREAS, Esther has spent her entire life living in the Clark County area and has dedicated a number of those years to educating children in a variety of subjects in a one-room schoolhouse; and

WHEREAS, Esther has eight brothers and sisters, and describes her childhood as happy. When she became old enough to work, it was her responsibility to clean and refill all of the oil lamps in her house; and

WHEREAS, Esther married in her 20's but had no children, which is one of her greatest regrets. Esther's greatest memory, however, was a three-month trip traveling abroad; and

WHEREAS, today, Esther resides at Simple Blessings, an assisted-living facility owned by Petersen's Health Care, and attributes her longevity to a good nutritional diet from years of living in the country, where her family ate healthy food they raised themselves; and

PROCLAMATIONS

WHEREAS, Esther's life has spanned many years and many historical events, including the rise of globalism, the television age, the end of the Cold War, and the digital revolution:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 13, 2005 as Esther O'Halloran day in Illinois to recognize Esther O'Halloran's amazing milestone as she celebrates her 107th birthday and with wishes of many more.

Issued by the Governor August 29, 2005.

Filed with the Secretary of State August 29, 2005.

2005-281**SMILES TAG DAYS**

WHEREAS, all Americans and Illinoisans deserve to live decent and quality lives, including those living with developmental disabilities; and

WHEREAS, the Little City Foundation was founded in 1956 by a group of parents who sought an alternative to the conventional services then available for their developmentally disabled children. The result was an organization unlike any other, one committed to providing unconditional love and support for their children and others like them; and

WHEREAS, fourteen years later, the parents created and established another initiative with the same fervor and passion that prompted them to begin the Little City Foundation. That year, hundreds of volunteers walked the streets of Chicago to collect and raise money for the Little City Foundation's programs as part of an annual fundraiser called Smiles for Little City; and

WHEREAS, throughout its history, the Smiles for Little City campaign has raised more than \$3 million that has been used to offer highly individualized occupational, recreational, residential, and therapeutic programs that enable the more than 1,000 children and adults the Little City Foundation annually serves to lead meaningful, productive, and most importantly, dignified lives; and

WHEREAS, this year, the Little City Foundation is celebrating their 31st Smiles for Little City drive, which will be held from September 15 to September 18:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 15-18, 2005 as smiles tag days in Illinois to recognize the Little City Foundation for their meritorious service to those living with developmental disabilities, and to encourage all citizens of the State to support them and their Smiles for Little City program.

Issued by the Governor August 29, 2005.

Filed with the Secretary of State August 29, 2005.

2005-282**JACK AND ELLEN LEWIS DAY**

PROCLAMATIONS

WHEREAS, on September 16, Immaculate Conception High School, located in Elmhurst of Dupage County Illinois, will rename their baseball, football, and soccer field as Lewis Stadium at Plunkett Field in memory of Jack and Ellen Lewis; and

WHEREAS, Jack Lewis served as the athletic director and head football coach at Immaculate Conception High School from 1969 to 1991; and

WHEREAS, Dupage County named Jack Coach of the Year for 1971, 1974, and 1978, and in 1987, he was inducted into the Illinois High School Football Coaches Hall of Fame; and

WHEREAS, two years later, Jack was inducted into the Chicago Catholic League Hall of Fame, and in 1992, he was presented with the Notre Dame Club of Chicago Frank Leahy Prep Coach Award; and

WHEREAS, Ellen Lewis served as a receptionist at the Immaculate Conception Parish from 1983 to 1994 and is the mother of three children; and

WHEREAS, just last year, Ellen passed away, four years after her husband, but their memory will live on at Immaculate Conception High School in Elmhurst:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 16, 2005 as **JACK AND ELLEN LEWIS DAY** in Illinois in honor and remembrance of Jack and Ellen Lewis.

Issued by the Governor August 29, 2005.

Filed with the Secretary of State August 29, 2005.

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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