

2007

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 31, Issue 7
February 16, 2007
Pages 2701-3116

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

2007 REGISTER SCHEDULE VOLUME #31

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
4	January 16, 2007	January 26, 2007
5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
7	February 5, 2007	February 16, 2007
8	February 13, 2007	February 23, 2007
9	February 20, 2007	March 2, 2007
10	February 26, 2007	March 9, 2007
11	March 5, 2007	March 16, 2007
12	March 12, 2007	March 23, 2007
13	March 19, 2007	March 30, 2007
14	March 26, 2007	April 6, 2007
15	April 2, 2007	April 13, 2007
16	April 9, 2007	April 20, 2007
17	April 16, 2007	April 27, 2007
18	April 23, 2007	May 4, 2007
19	April 30, 2007	May 11, 2007
20	May 7, 2007	May 18, 2007
21	May 14, 2007	May 25, 2007
22	May 21, 2007	June 1, 2007
23	May 29, 2007	June 8, 2007

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
24	June 4, 2007	June 15, 2007
25	June 11, 2007	June 22, 2007
26	June 18, 2007	June 29, 2007
27	June 25, 2007	July 6, 2007
28	July 2, 2007	July 13, 2007
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31	July 23, 2007	August 3, 2007
32	July 30, 2007	August 10, 2007
33	August 6, 2007	August 17, 2007
34	August 13, 2007	August 24, 2007
35	August 20, 2007	August 31, 2007
36	August 27, 2007	September 7, 2007
37	September 4, 2007	September 14, 2007
38	September 10, 2007	September 21, 2007
39	September 17, 2007	September 28, 2007
40	September 24, 2007	October 5, 2007
41	October 1, 2007	October 12, 2007
42	October 9, 2007	October 19, 2007
43	October 15, 2007	October 26, 2007
44	October 22, 2007	November 2, 2007
45	October 29, 2007	November 12, 2007
46	November 5, 2007	November 16, 2007
47	November 12, 2007	November 26, 2007
48	November 19, 2007	December 1, 2006
49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Uniform System of Accounts for Electric Utilities
- 2) Code Citation: 83 Ill. Adm. Code 415
- 3) Section Number: 415.10 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Sections 5-102, 5-103, and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The Commission has adopted 83 Ill. Adm. Code 415, "Uniform System of Accounts for Electric Utilities", as its system of accounts for those electric utilities under its jurisdiction. Part 415 incorporates by reference 18 CFR 101 with certain specified additions and deletions. The purpose in amending Part 415 is to incorporate 18 CFR 101 as of June 15, 2006. The current Part 415 incorporates 18 CFR 101 as of August 8, 2003. This proposed amendment will include recent changes to the federal rules adopted by the Federal Energy Regulatory Commission concerning the documentation requirements for entities that participated in cash management programs updating the accounting requirements for public utilities and licensees, including independent system operators and regional transmission organizations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 07-0065, with:

Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This amendment will not affect any small municipalities or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping
 - C) Types of professional skills necessary for compliance: Accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 415
UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC UTILITIESSUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE

Section

- 415.10 Adoption of 18 CFR 101 by Reference
415.20 Adoption of 18 CFR 116 by Reference (Repealed)

SUBPART B: ADDITIONS TO AND DELETIONS FROM CFR PROVISIONS

Section

- 415.200 Definitions
415.210 General Instruction 1
415.250 General Instruction 5
415.270 General Instruction 7 (Repealed)
415.280 General Instruction 7.1 (Repealed)
415.330 General Instruction 12 (Repealed)
415.340 General Instruction 13
415.380 General Instruction 17
415.390 General Instruction 18
415.410 General Instruction 20
415.411 General Instruction 21
415.420 Electric Plant Instruction 2 (Repealed)
415.430 Electric Plant Instruction 3
415.450 Electric Plant Instruction 5 (Repealed)
415.470 Electric Plant Instruction 7
415.500 Electric Plant Instruction 10
415.940 Income Chart of Accounts
415.970 Operation and Maintenance Expense Chart of Accounts
415.1020 Account 102 (Repealed)
415.1050 Account 105
415.1080 Account 108 (Repealed)
415.2010 Accounts 201, 202, 203, and 204

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

415.2070	Account 207
415.2110	Account 211
415.2140	Account 214
415.4118	Account 411.8
415.4119	Account 411.9
415.4160	Account 416
415.4261	Account 426.1 (Repealed)
415.4390	Account 439
415.5180	Account 518
415.9140	Accounts 914 and 915
415.9302	Account 930.2 (Repealed)

415.APPENDIX G Operation and Maintenance Expense Accounts
415.EXHIBIT A Accounts 914 and 915

AUTHORITY: Implementing Sections 5-102, 5-103, and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101].

SOURCE: Adopted July 14, 1960, effective January 1, 1962; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 160, effective January 1, 1984; amended at 9 Ill. Reg. 4016, effective April 1, 1985; amended at 9 Ill. Reg. 13079, effective August 15, 1985; amended at 12 Ill. Reg. 11710, effective July 15, 1988; amended at 18 Ill. Reg. 10692, effective July 1, 1994; amended at 18 Ill. Reg. 17996, effective December 15, 1994; amended at 22 Ill. Reg. 6647, effective April 1, 1998; amended at 23 Ill. Reg. 1346, effective February 1, 1999; amended at 28 Ill. Reg. 334, effective December 31, 2003; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE

Section 415.10 Adoption of 18 CFR 101 by Reference

The Illinois Commerce Commission ("Commission") adopts 18 CFR 101, as of [June 15, 2006](#)~~August 8, 2003~~, as its uniform system of accounts for electric utilities, subject to the exceptions set forth in Section 415.200 et seq. of this Part. No incorporation in this Part includes any later amendment or edition.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Uniform System of Accounts for Gas Utilities
- 2) Code Citation: 83 Ill. Adm. Code 505
- 3) Section Number: 505.10 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 5-102 and 5-103 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The Commission has adopted 83 Ill. Adm. Code 505, "Uniform System of Accounts for Gas Utilities", as its system of accounts for those gas utilities under its jurisdiction. Part 505 incorporates by reference 18 CFR 201 with certain specified additions and deletions. The purpose in amending Part 505 is to incorporate 18 CFR 201 as of June 15, 2006. The current Part 505 incorporates 18 CFR 201 as of August 8, 2003. The proposed amendment will incorporate federal amendments concerning the documentation requirements for entities that participated in cash management programs.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 07-0070, with:

Chief Clerk

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This amendment will not affect any small municipalities or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping
 - C) Types of professional skills necessary for compliance: Accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIESPART 505
UNIFORM SYSTEM OF ACCOUNTS FOR GAS UTILITIESSUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE

Section

- 505.10 Adoption of 18 CFR 201 by Reference
505.20 Adoption of 18 CFR 216 by Reference (Repealed)

SUBPART B: ADDITIONS TO AND DELETIONS FROM CFR PROVISIONS

Section

- 505.200 Definitions
505.210 General Instruction 1
505.250 General Instruction 5
505.270 General Instruction 7 (Repealed)
505.280 General Instruction 7.1 (Repealed)
505.330 General Instruction 12
505.340 General Instruction 13
505.370 General Instruction 16
505.380 General Instruction 17
505.390 General Instruction 18
505.410 General Instruction 20
505.420 Gas Plant Instruction 2 (Repealed)
505.430 Gas Plant Instruction 3
505.450 Gas Plant Instruction 5 (Repealed)
505.470 Gas Plant Instruction 7
505.500 Gas Plant Instruction 10
505.550 Gas Plant Instruction 15
505.900 Balance Sheet Chart of Accounts
505.940 Income Chart of Accounts
505.970 Operation and Maintenance Expense Chart of Accounts
505.1020 Account 102 (Repealed)
505.1030 Account 103

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

505.1050	Account 105
505.1051	Account 105.1
505.1080	Account 108 (Repealed)
505.1170	Account 117
505.1641	Account 164.1
505.1642	Account 164.2
505.1643	Account 164.3
505.1660	Account 166
505.1740	Account 174
505.2010	Accounts 201, 202, 203, and 204
505.2070	Account 207
505.2110	Account 211
505.2140	Account 214
505.2420	Account 242
505.3523	Account 352.3
505.4090	Account 409 (Reserved) (Repealed)
505.4160	Account 416
505.4261	Account 426.1 (Repealed)
505.4390	Account 439
505.4810	Account 481
505.4910	Account 491
505.4950	Account 495
505.8050	Account 805
505.8060	Account 806
505.8081	Account 808.1
505.8082	Account 808.2
505.8130	Account 813
505.8230	Account 823
505.8456	Account 845.6
505.8540	Account 854
505.8580	Account 858
505.9140	Accounts 914 and 915
505.9302	Account 930.2 (Repealed)

505.APPENDIX G Operation and Maintenance Expense Accounts

505.EXHIBIT A Accounts 914 and 915

AUTHORITY: Implementing Sections 5-102 and 5-103 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101].

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted July 14, 1960, effective January 1, 1962; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 177, effective January 1, 1984; amended at 9 Ill. Reg. 4022, effective April 1, 1985; amended at 9 Ill. Reg. 13083, effective August 15, 1985; amended at 13 Ill. Reg. 10858, effective July 1, 1989; amended at 14 Ill. Reg. 1605, effective January 16, 1990; amended at 18 Ill. Reg. 10701, effective July 1, 1994; amended at 22 Ill. Reg. 9543, effective June 1, 1998; amended at 23 Ill. Reg. 1350, effective February 1, 1999; amended at 28 Ill. Reg. 340, effective December 31, 2003; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE**Section 505.10 Adoption of 18 CFR 201 by Reference**

The Illinois Commerce Commission adopts 18 CFR 201, as of ~~June 15, 2006~~August 8, 2003, as its uniform system of accounts for gas utilities, subject to the exceptions set forth in Subpart B of this Part. No incorporation in this Part includes any later amendment or edition.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities
- 2) Code Citation: 83 Ill. Adm. Code 590
- 3) Section Number: 590.10 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Commerce Commission has adopted 83 Ill. Adm. Code 590 to incorporate by reference certain federal safety standards. This complies with Section 3 of the Illinois Gas Pipeline Safety Act, which requires the Commission's rules to be as inclusive and as stringent as the Federal safety standards and compatible with the Federal safety standards. Since the last amendment of Part 590 in 2005, the United States Department of Transportation completed rulemakings that amended its safety standards in 49 CFR 192, which the Commission has incorporated by reference in Part 590. It is appropriate to initiate rulemaking to incorporate the USDOT amendments into Part 590.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 07-0069, with:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This amendment will affect any small municipalities or not for profit corporations that are also jurisdictional entities.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Recordkeeping and reporting
 - C) Types of professional skills necessary for compliance: Managerial and engineering skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIESPART 590
MINIMUM SAFETY STANDARDS FOR TRANSPORTATION
OF GAS AND FOR GAS PIPELINE FACILITIES

Section
590.10 Standards

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

SOURCE: Filed effective November 28, 1977; amended at 3 Ill. Reg. 5, p. 761, effective February 3, 1979; amended at 3 Ill. Reg. 11, p. 25, effective March 17, 1979; amended at 4 Ill. Reg. 1, p. 23, effective January 1, 1980; amended at 5 Ill. Reg. 6778, effective June 16, 1981; rules repealed, new rules adopted and codified at 7 Ill. Reg. 12858, effective September 16, 1983; amended at 8 Ill. Reg. 13195, effective July 16, 1984; amended at 10 Ill. Reg. 19405, effective November 15, 1986; amended at 11 Ill. Reg. 11733, effective July 1, 1987; amended at 12 Ill. Reg. 11707, effective July 15, 1988; recodified from 92 Ill. Adm. Code 1800 at 12 Ill. Reg. 12997; amended at 13 Ill. Reg. 16968, effective November 1, 1989; amended at 14 Ill. Reg. 10018, effective June 15, 1990; amended at 17 Ill. Reg. 12291, effective July 15, 1993; amended at 18 Ill. Reg. 11518, effective July 25, 1994; amended at 19 Ill. Reg. 13549, effective October 1, 1995; amended at 21 Ill. Reg. 8906, effective July 1, 1997; amended at 23 Ill. Reg. 11872, effective October 1, 1999; amended at 25 Ill. Reg. 11355, effective September 1, 2001; amended at 27 Ill. Reg. 12385, effective August 1, 2003; amended at 29 Ill. Reg. 11808, effective August 1, 2005; amended at 31 Ill. Reg. _____, effective _____.

Section 590.10 Standards

- a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.23, 192, 193 and 199, as of January 1, ~~2007~~2005, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.
- b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill Adm. Code 113
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
113.160	Amendment
113.253	Amendment
113.260	Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: A grant adjustment is an allowance for Aged, Blind or Disabled cases that ensures that the amount of the Supplemental Security Income (SSI) increase from July 1977 and later will be available to clients. To comply with federal regulations at 20 CFR 416.2096, this rulemaking increases the grant adjustment and sheltered care/personal or nursing care rate amounts by the amount of the increase in Social Security and SSI benefits. In order to maintain the benefit levels, these changes increase the AABD Grant Adjustment Allowance and Sheltered Care/Personal or Nursing Care rates by \$20.00, the amount of the January 2007 SSA/SSI benefit increase.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
113.264	Amendment	30 Ill. Reg. 18431; 12/1/06
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Sheltered Care Homes
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: January 2007

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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- 113.9 Client Cooperation
113.10 Citizenship
113.20 Residence
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113.40 Blind
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113.60 Living Arrangement
113.70 Institutional Status
113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
113.101 Budgeting Unearned Income
113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of
Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earmarked Income
113.107 Lump Sum Payments and Income Tax Refunds
113.108 Protected Income (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 113.109 Earned Income (Repealed)
- 113.110 Budgeting Earned Income (Repealed)
- 113.111 Protected Income
- 113.112 Earned Income
- 113.113 Exempt Unearned Income
- 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
- 113.115 Initial Employment
- 113.116 Budgeting Earned Income For Contractual Employees
- 113.117 Budgeting Earned Income For Non-contractual School Employees
- 113.118 Termination of Employment
- 113.120 Exempt Earned Income
- 113.125 Recognized Employment Expenses
- 113.130 Income From Work/Study/Training Programs
- 113.131 Earned Income From Self-Employment
- 113.132 Earned Income From Roomer and Boarder
- 113.133 Earned Income From Rental Property
- 113.134 Earned Income In-Kind
- 113.139 Payments from the Illinois Department of Children and Family Services
- 113.140 Assets
- 113.141 Exempt Assets
- 113.142 Asset Disregard
- 113.143 Deferral of Consideration of Assets
- 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
- 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
- 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
- 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
- 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
- 113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts
- 113.248 Shelter

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113.249	Utilities and Heating Fuel
113.250	Laundry
113.251	Telephone
113.252	Transportation, Lunches, Special Fees
113.253	Allowances for Increase in SSI Benefits
113.254	Nursing Care or Personal Care in Home Not Subject to Licensing
113.255	Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256	Shopping Allowance
113.257	Special Allowances for Blind and Partially Sighted (Blind Only)
113.258	Home Delivered Meals
113.259	AABD Fuel and Utility Allowances By Area
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113.261	Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262	Meeting the Needs of an Ineligible Dependent with Client's Income
113.263	Service Animals
113.264	Refugees Ineligible for SSI

SUBPART E: OTHER PROVISIONS

Section	
113.300	Persons Who May Be Included In the Assistance Unit
113.301	Grandfathered Cases
113.302	Interim Assistance (Repealed)
113.303	Special Needs Authorizations
113.304	Retrospective Budgeting
113.305	Budgeting Schedule
113.306	Purchase and Repair of Household Furniture (Repealed)
113.307	Property Repairs and Maintenance
113.308	Excess Shelter Allowance
113.309	Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320	Redetermination of Eligibility
113.330	Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section	
113.400	Description of the Interim Assistance Program

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- 113.405 Pending SSI Application (Repealed)
- 113.410 More Likely Than Not Eligible for SSI (Repealed)
- 113.415 Non-Financial Factors of Eligibility (Repealed)
- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective

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October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867,

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effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995;

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emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.160 Assignment of Medical Support Rights

- a) As a condition of eligibility for medical assistance under the AABD Program, each applicant or recipient by operation of State law, automatically assigns to the Department any rights to support which the applicant or recipient may have. This assignment gives the Department the right to collect support money directly from the absent spouse in order to be reimbursed for assistance given to the applicant/recipient.
- b) As a condition of eligibility for medical assistance under the AABD Program each legally able applicant and recipient must cooperate (see 89 Ill. Adm. Code 120.320(b) with the Department in obtaining medical support or payments. Note:

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Cooperation in establishing paternity is not a requirement for medical assistance under the AABD Program.) ("Legally able" means the applicant/recipient has the legal authority to execute an assignment of medical support rights.)

- c)
- 1) If an applicant/recipient fails or refuses to cooperate with the Department in obtaining medical support or payments, he/she is ineligible for medical assistance and will be removed from the assistance unit for medical assistance. (Non-cooperation is failure/refusal to comply with the requirements (except "paternity") of 89 Ill. Adm. Code 120.320(b)). However, the applicant/recipient remains eligible for AABD cash benefits.
 - 2) If the applicant/recipient fails/refuses to cooperate in obtaining medical support/payments (not applicable to "establishing paternity") or sign-up for no cost medical insurance, he/she is ineligible for medical assistance for as long as he/she continues to fail/refuse to cooperate. If the applicant/recipient later wishes to receive medical assistance, then he/she must cooperate by complying with the requirement (see 89 Ill. Adm. Code 120.320(b) that he/she previously failed/refused to meet.
 - 3) An applicant/recipient can appeal the Department's determination ~~that~~he he/she failed/refused to cooperate in obtaining medical support payments or that he/she failed/refused to sign-up for no cost medical insurance. Such appeal shall be in accordance with 89 Ill. Adm. Code ~~14104~~: Subpart A.
- d) The Department will provide or continue to provide medical assistance to any applicant or recipient who would otherwise be eligible for medical assistance but for the refusal by a person legally able to cooperate in securing medical support.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART D: PAYMENT AMOUNTS

Section 113.253 Allowances for Increase in SSI Benefits

- a) An allowance for \$~~444.90~~~~424.90~~ is authorized for all AABD cases as a "grant adjustment". A grant adjustment is an allowance that ensures that the amount of the SSI increase from July 1977 and later will be available to clients.

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- b) EXCEPTIONS: For clients whose assistance payments include an allowance for Sheltered Care or Care Not Subject to Licensing a "grant adjustment" of \$10 is authorized. Individuals residing in long term group care facilities do not receive any "grant adjustment".

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 113.260 Sheltered Care, Personal Care or Nursing Care Rates

Group A Counties	Needs Assessment	Group B Counties
1020 1000	0-7	1033 1013
1025 1005	8	1040 1020
1031 1011	9	1046 1026
1036 1016	10	1053 1033
1042 1022	11	1060 1040
1047 1027	12	1066 1046
1053 1033	13	1073 1053
1058 1038	14	1079 1059

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<u>1064</u> 1044	15	<u>1086</u> 1066
<u>1069</u> 1049	16	<u>1093</u> 1073
<u>1075</u> 1055	17	<u>1099</u> 1079
<u>1080</u> 1060	18	<u>1106</u> 1086
<u>1086</u> 1066	19	<u>1112</u> 1092
<u>1091</u> 1071	20	<u>1119</u> 1099
<u>1097</u> 1077	21	<u>1126</u> 1106
<u>1102</u> 1082	22	<u>1132</u> 1112
<u>1108</u> 1088	23	<u>1139</u> 1119
<u>1113</u> 1093	24	<u>1145</u> 1125

- a) Group A Counties are counties other than Cook, DuPage, Kane, Lake and Will.
- b) Group B Counties are Cook, DuPage, Kane, Lake and Will.
- c) Rate includes shelter factor and approved activity and social rehabilitation programs.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Assessment for Determining Eligibility and Rehabilitation Needs
- 2) Code Citation: 89 Ill. Adm. Code 553
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
553.30	Amendment
553.31	Amendment
553.40	Amendment
553.50	Amendment
553.130	Amendment
553.140	Amendment
553.150	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates language in Section 553.130 regarding the Order of Selection. In Section 553.140, the documentation that must be included in an individual's case file has been revised. Documentation of the determination that an individual has a most significant disability, a very significant disability, or a significant disability must be in the VR case file, as well as an evaluation for his or her rehabilitation potential. Additionally, the Department is making changes to Section 553.150, Determination of Serious Limitation to Functional Capacities. This rulemaking also updates all DHS-ORS to DHS-DRS.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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

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

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Rehabilitation Counselors hold a Master's Degree.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 553

ASSESSMENT FOR DETERMINING ELIGIBILITY AND
REHABILITATION NEEDS

Section

553.10	General Applicability (Repealed)
553.20	Basis for Eligibility
553.25	Disability Documentation
553.30	Presumption of Benefit from Vocational Rehabilitation Services
553.31	Trial Work Experiences
553.32	Outcome of Trial Work Experiences
553.35	Services to Non-United States Citizens
553.40	Eligibility Determination Time Frames
553.50	Eligibility Determination
553.60	Documentation of Eligibility Factors/Preliminary Assessment (Repealed)
553.70	Certification of Eligibility (Repealed)
553.75	Trial Work (Repealed)
553.76	Outcome of Trial Work (Repealed)
553.80	Extended Evaluation (Repealed)
553.90	Outcome of Extended Evaluation (Repealed)
553.100	Assessment
553.105	Assistance in Attaining Necessary Financial Support (Repealed)
553.110	Outcome of the Assessment of Rehabilitation Needs (Repealed)
553.120	Change in Eligibility Status (Repealed)
553.130	Order of Selection
553.140	Criteria for Most Significant Disability and Very Significant Disability and Significant Disability
553.150	Determination of Serious Limitation to Functional Capacities

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

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11657, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20346, effective November 15, 1993; amended at 19 Ill. Reg. 1834, effective February 6, 1995; amended at 19 Ill. Reg. 10149, effective June 29,

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1995; amended at 19 Ill. Reg. 15730, effective November 7, 1995; emergency amendment at 20 Ill. Reg. 10385, effective July 19, 1996, for a maximum of 150 days; emergency expired on December 15, 1996; emergency amendment at 20 Ill. Reg. 11974, effective August 16, 1996, for a maximum of 150 days; emergency expired on January 13, 1997; amended at 21 Ill. Reg. 1386, effective January 17, 1997; amended at 21 Ill. Reg. 2669, effective February 10, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1368, effective January 14, 1999; emergency amendment at 23 Ill. Reg. 6544, effective May 17, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12440, effective September 28, 1999; amended at 23 Ill. Reg. 13222, effective October 18, 1999; amended at 25 Ill. Reg. 11842, effective August 31, 2001; amended at 29 Ill. Reg. 12845, effective August 8, 2005; amended at 30 Ill. Reg. 7754, effective April 6, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 553.30 Presumption of Benefit from Vocational Rehabilitation Services

- a) Any individual with a disability is presumed to be able to benefit from VR services and ~~to be being~~ capable of achieving a successful employment outcome. This presumption shall continue unless ~~DHS-DRS DHS-ORS~~ can demonstrate through clear and convincing evidence that the individual is incapable of ~~benefiting~~~~benefitting~~ from VR services and becoming successfully employed.
- b) Prior to the determination that the individual is incapable of ~~benefiting~~~~benefitting~~ from VR services because of the significance of the disability, the individual must be provided a period of trial work pursuant to 89 Ill. Adm. Code 553.31.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.31 Trial Work Experiences

- a) ~~DHS-DRSORS~~ shall provide trial work experience by conducting explorations of a customer's abilities, capabilities and capacity to perform in realistic work situations. Trial work experience shall include one or more work settings and be of sufficient variety and over a sufficient period of time to determine whether the individual can or cannot benefit from VR services. Trial work experiences may include supported employment, on-the-job training and other experiences using realistic work settings in the most integrated settings possible. Other examples may include internships, job shadowing, structured volunteer experiences in real work settings and community-based assessments.

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- b) Under limited circumstances, if an individual cannot take advantage of other trial work experiences, or if options for trial work experiences have been exhausted before the determination of eligibility has been made, DHS-~~DRSORS~~ shall conduct an extended evaluation to make the determination.
- c) DHS-~~DRSORS~~ shall develop a written Trial Work Plan to periodically assess the individual's abilities, capabilities and capacity to perform in trial work experiences.
- d) During the time that the trial work experience is being provided, DHS-~~DRSORS~~ shall provide appropriate support services to accommodate the vocational rehabilitation needs of the individual.
- e) The trial work experience must be undertaken consistent with the informed choice and rehabilitation needs of the individual.
- f) The trial work experience of the individual shall continue until one of the outcomes described in Section 553.32 is met.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.40 Eligibility Determination Time Frames

After receiving a completed application for VR services, DHS-~~DRSORS~~ shall make an eligibility determination and determine the individual's priority to receive services under the Order of Selection within a reasonable time period, not to exceed 60 calendar days from the date the individual applies for services unless:

- a) DHS-~~DRSORS~~ notifies the individual that exceptional and unforeseen circumstances beyond DHS-~~DRSORS~~ control preclude DHS-~~DRSORS~~ from completing a timely determination and the individual agrees to an extension; or
- b) DHS-~~DRSORS~~ determines, on the basis of the criteria set forth at 89 Ill. Adm. Code 553.30, that a period of trial work is necessary pursuant to 89 Ill. Adm. Code 553.31.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.50 Eligibility Determination

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Prior to the end of the eligibility determination period (i.e., 60 days), one of the following must occur:

- a) the customer has been determined to be eligible to receive VR services and has a disability that will allow services to be provided under the Order of Selection and has an employment outcome consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice. At this time a Certification of Eligibility shall be completed. The customer will then undergo an Assessment pursuant to Section 553.100 of this Part;
- b) the customer is determined eligible but not to have a disability that allows services to be provided under the Order of Selection (Section 553.130). The customer will be offered the option to have his or/ her name placed on a waiting list to wait until services can be provided to the priority category established under the Order of Selection or to have his or/ her case closed. The customer shall be referred to other agencies that can provide services, i.e. a comprehensive one-stop center, a private rehabilitation agency, a community rehabilitation program, a Center for Independent Living, etc.;
- c) a trial work period is determined to be necessary. The Written Trial Work Plan shall be completed and the trial work shall begin;
- d) the customer does not meet the required eligibility criteria (see Section 553.20). A Certification of Ineligibility shall be completed and the individual's case closed;
or
- e) the customer's case is closed for reasons other than ineligibility (e.g., the customer has refused services or further services from DHS-DRSORS, the customer cannot be located).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.130 Order of Selection

- a) Pursuant to the provisions of the Rehabilitation Act of 1973, as amended (29 USC 701 et seq.), DHS-DRSORS has established the following Order of Selection ~~for~~ for the priority ~~for the~~ provision of services to eligible individuals, which counselors must follow when serving customers:

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- 1) those individuals determined to have the most significant disabilities;
 - 2) those individuals determined to have very significant disabilities; ~~and~~
 - 3) individuals determined to have significant disabilities; ~~and-~~
 - 4) individuals determined to have disabilities.
- b) For the purposes of administering services under the Order of Selection, the Director of DHS-DRS/DHS/ORS will determine at the beginning of each fiscal year, or more often as necessary, which of the categories under subsection (a) will be open for service. ~~has determined that current funding levels allow services to be provided to eligible individuals in the categories established in subsections (a)(1) and (2).~~
- c) Eligible individuals in a closed category under subsection (a)(~~3~~) may choose to be placed on a waiting list for services. (See Section 553.50(b).)

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.140 Criteria for Most Significant Disability and Very Significant Disability and Significant Disability

Documentation of the determination that ~~an~~the individual has a most significant disability, a very significant disability, or a significant disability must be in the individual's VR case file, as well as documentation concerning the evaluation of his or her rehabilitation potential.

- a) Prior to determining the significance of an individual's disability, it must be determined that he or she:
 - 1) has a disability, or a combination of disabilities, that causes a substantial physical or mental impairment that is similar, but not limited to, the following list of disabilities:
 - a) ~~An individual who has been determined pursuant to Title II (SSDI) or Title XVI (SSI) to be eligible for disability benefits shall be considered an individual with a most significant disability.~~

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- b) ~~Otherwise, to be considered an individual with a most significant disability, the individual must have a disability that is determined by the rehabilitation counselor/instructor to meet the following criteria:~~
- 1) ~~The disability seriously limits three or more of the individual's functional capacities, as listed in Section 553.150 of this Part;~~
 - 2) ~~The individual has a disability or combination of disabilities determined by an evaluation of rehabilitation potential to cause a substantial physical or mental impairment similar, but not limited to the following list of disabilities~~
 - A) amputation,
 - B) arthritis,
 - C) autism,
 - D) blindness,
 - E) burn injury,
 - F) cancer,
 - G) cerebral palsy,
 - H) cystic fibrosis,
 - I) deafness,
 - J) head injury,
 - K) heart disease,
 - L) hemiplegia,
 - M) hemophilia,
 - N) respiratory or pulmonary dysfunction,

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- O) mental retardation,
- P) mental illness,
- Q) multiple sclerosis,
- R) muscular dystrophy,
- S) musculo-skeletal disorders,
- T) neurological disorders (including stroke and epilepsy),
- U) paraplegia,
- V) quadriplegia (and other spinal cord conditions),
- W) sickle cell anemia,
- X) specific learning disabilities, or
- Y) end stage renal failure disease;

23) has a disability, or a combination of disabilities, that seriously limits his or her functional capacities, as listed in Section 553.150 of this Part; and The individual requires two or more substantial VR services, in addition to the routine services of counseling and guidance, and information and referral to ensure the individual a successful employment outcome; and

34) requires VR services will be required over an extended period of time at least six months or longer.

b) If an individual meets the requirements of Section 553.140(a), then the following criteria must be met to determine the significance of his or her disability:

1) To be considered an individual with a most significant disability, he or she must:

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- A) be an individual who has been determined eligible for disability benefits pursuant to Title II (SSDI) or Title XVI (SSI) of the Social Security Act; or
- B) be an individual who has a disability that seriously limits three or more of his or her functional capacities and who requires two or more substantial VR services, in addition to the routine services of counseling and guidance, and information and referral to ensure a successful employment outcome.
- 2)e) To be considered an individual with a very significant disability, he or she~~the individual~~ must have a disability that seriously limits two of his or her functional capacities, ~~as listed in Section 553.150 of this Part,~~ and must require one or more substantial VR services, in addition to the routine services of counseling and guidance, and information and referral to ensure ~~the individual~~ a successful employment outcome.
- 3)d) To be considered an individual with a significant disability, he or she~~the individual~~ must have a disability that seriously limits one of his or her functional capacities ~~as listed in Section 553.150 of this Part,~~ and must require one or more substantial VR services, in addition to the routine services of counseling and guidance, and information and referral to ensure ~~the individual~~ a successful employment outcome.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 553.150 Determination of Serious Limitation to Functional Capacities

- a) For the purpose of determination of the degree of significance of disability ~~significant and most significant disabilities~~, functional capacities shall include:
- 1) mobility – the physical ability of an individual to move from place to place and move the body into certain positions. This includes such activities as: (e.g., walking, climbing, kneeling, stooping, sitting, standing, and similar activities);
 - 2) self-care – the ability of an individual to perform activities related to his or/ her health and hygiene. This includes such activities as: (e.g., grooming, bathing, eating, house keeping, medical management, and

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money management);

- 3) self-direction – the ability of an individual to organize, control and regulate his or her own personal, social, and work life. This includes such activities as: maintaining (i.e., maintain schedules and routines, following ~~follow~~ directions and established rules, organizing activities for oneself, and adjusting to changing circumstances ~~organizational skills, etc.);~~);
- 4) work skills – the ability of an individual to demonstrate skills necessary to perform jobs that ~~which~~ exist in the current employment market, regardless of demand for the particular occupation or the individual's prior work experience. This includes such activities as: learning (e.g., learn and maintaining ~~maintain~~ work skills, cooperating ~~cooperate~~ with others in a work setting, using ~~use~~ adequate decision making and problem solving skills, and using academic skills commonly required in the workplace);
- 5) work tolerance – the ability of an individual to consistently and adequately perform a job based on the physical, emotional, environmental, and psychological demands of a specific work environment. This includes such activities as: maintaining the position (e.g., performance on the job regardless of ~~is not adversely affected by~~ changes in environment such as cold and heat, demonstrating ~~has~~ the strength and endurance to perform the job in question, and working the schedule typical of other employees in the same job);
- 6) interpersonal skills – the ability of an individual to establish and maintain appropriate relationships with other individuals in the work place. This includes such activities as: engaging in (e.g., necessary work-related communications, demonstrating behavior that is appropriate and acceptable in the work environment ~~behavior~~, cooperating with others ~~ability to cooperate~~ in a team setting, and showing understanding and, tact in dealing with others); and
- 7) communication – the ability to convey and receive information efficiently and effectively. This includes such activities as: hearing (e.g., ability to hear and understanding ~~understand~~ ordinary spoken language; making ~~ability to make~~ one's self understood in ordinary conversation; writing or printing ~~ability to write or print~~ short notes and communications;

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and ~~reading and correctly interpreting~~ability to read and correctly interpret short notes, signs, and instructions).

- b) A serious limitation to a functional capacity shall exist when it is determined by the rehabilitation counselor ~~or~~/ instructor that the customer, because of his ~~or~~/ her disability, has functional limitations in performing the major components of the activity or activities listed in subsections (a)(1) through (7) or needs accommodation to perform the activity.
- c) The rehabilitation counselor or instructor shall use the criteria of consistency and substantiality when evaluating the degree of limitation to functional capacity. Consistency means that the individual's disability always or almost always limits the individual's functioning. Substantiality means the individual's disability has a major, significant impact on functioning and that the individual cannot perform the activity or finds it very difficult to perform the activity.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This was not included on either of the two most recent regulatory agendas because: This was not an anticipated amendment when the last 2 regulatory agendas were published.

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 679
DETERMINATION OF NEED (DON) AND
RESULTING SERVICE COST MAXIMUMS (SCMs)

Section	
679.10	General Provisions
679.20	Composition of the DON
679.30	Scoring of the DON Except for Respite Cases
679.40	Scoring the DON for Respite Cases
679.50	Service Cost Maximums (SCMs)

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

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 21 Ill. Reg. 2674, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 22 Ill. Reg. 2328, effective January 12, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10445, effective May 29, 1998; emergency amendment at 22 Ill. Reg. 16031, effective August 14, 1998, for a maximum of 150 days; emergency expired on January 11, 1999; amended at 23 Ill. Reg. 1615, effective January 20, 1999; amended at 23 Ill. Reg. 7492, effective June 17, 1999; emergency amendment at 23 Ill. Reg. 10526, effective August 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 285, effective December 23, 1999; amended at 24 Ill. Reg. 6563, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 9966, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17126, effective November 3, 2000; emergency amendment at 27 Ill. Reg. 17428, effective November 6, 2003, for a maximum of 150 days; emergency expired April 3, 2004; amended at 28 Ill. Reg. 7056, effective April 30, 2004; emergency amendment at 28 Ill. Reg. 15178, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 422, effective December 29, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 679.30 Scoring of the DON Except for Respite Cases

- a) An individual receiving a 14 or more on the Mini-Mental Status Examination

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shall receive "zero" points towards his/her column A score. An individual receiving less than 14 points shall receive an additional "10" points added to his/her column A score for the determination of eligibility and a SCM.

- b) The remaining two sections of the DON measure the individual's ability to complete the ADLs. The ADLs are specifically: eating, bathing, grooming, dressing, transferring, incontinence care, preparing meals, being alone, telephoning, managing money, routine health care tasks (or those health care tasks not requiring specialized training), specialized health care tasks (or those requiring assistance from trained medical practitioners), necessary travel outside the home, laundry, and housework.
- 1) Part A of the DON measures the individual's need for assistance in the completion of each of the ADLs on the following rating scale.
- A) "0" – the individual can perform all essential components of the ADL with or without an existing assistive device;
 - B) "1" – the individual can perform most of the ADL, with or without an existing assistive device, but requires some supervision and/or assistance to ensure the task is fully completed;
 - C) "2" – the individual requires a great deal of supervision and/or assistance, with or without existing assistive devices, in the completion of the essential components of the task; and
 - D) "3" – the individual cannot perform any of the essential components of the task, with or without existing assistive devices and requires constant supervision and/or assistance.
- 2) Part B of the DON measures the individual's unmet need for care in the completion of the ADLs on the following scale.
- A) "0" – the individual has no unmet need for care in that the individual needs no assistance in completion of the essential components of the task, or family and/or other resources already provide for this task;
 - B) "1" – the individual's need for assistance in the completion of the

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task is met at least 50% of the time, and, without periodic assistance, there is a risk to the individual's health and safety;

- C) "2" – the individual's need for assistance in the completion of the task is met less than 50% of the time and, without assistance, there is moderate risk to the individual's health and safety; and
 - D) "3" – the individual's need for assistance in the completion of the task is seldom (less than 10% of the time) or never met and, without assistance, there is extreme risk to the individual's health and safety.
- c) In administering the DON for children, the assessor should ensure the ratings given reflect limitations due to the individual's disability and not the individual's age and/or the additional burden placed on the caregiver.
- 1) On Part A, determine if a child of the individual's age should be able to complete all or part of the task. If the inability to perform the task relates only to the individual's age, a score of "zero" should be given. Otherwise, score "1", "2", or "3" according to the individual's impairment level.
 - 2) On Part BA, determine the additional burden placed on a caregiver providing the service. If, because of the individual's age, there is no increased burden, a score of "0" should be given. If there is an increased burden on the caregiver due to the individual's disability, score "1", "2", or "3" according to the increased level of burden in providing the task.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Firearms
- 2) Code Citation: 17 Ill. Adm. Code 650
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
650.10	Amendment
650.20	Amendment
650.22	Amendment
650.60	Amendment
650.67	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: make Statewide program changes, update the list of State-owned or -managed sites which will be open for hunting and to amend procedures at State sites.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way

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Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

The full text of the Proposed 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 650

WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

Section

650.10	Statewide Season and Permit Quotas
650.20	Statewide Deer Permit Requirements
650.21	Deer Permit Requirements – Landowner/Tenant Permits
650.22	Deer Permit Requirements – Special Hunts
650.23	Deer Permit Requirements – Group Hunt
650.30	Statewide Firearms Requirements
650.40	Statewide Deer Hunting Rules
650.45	Reporting Harvest
650.50	Rejection of Application/Revocation of Permits
650.60	Regulations at Various Department-Owned or -Managed Sites
650.65	Youth Hunt (Repealed)
650.67	Special Hunts for Disabled Hunters
650.70	Special Extended Season Firearm Deer Hunt (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified at 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendment at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March 21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5859, effective April 5, 1994; amended at 18 Ill.

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Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. 6477, effective April 28, 1995; amended at 20 Ill. Reg. 7515, effective May 20, 1996; amended at 21 Ill. Reg. 5572, effective April 19, 1997; amended at 21 Ill. Reg. 9116, effective June 26, 1997; amended at 22 Ill. Reg. 8007, effective April 28, 1998; amended at 23 Ill. Reg. 5564, effective April 26, 1999; amended at 24 Ill. Reg. 8971, effective June 19, 2000; amended at 24 Ill. Reg. 10260, effective July 1, 2000; amended at 25 Ill. Reg. 7231, effective May 22, 2001; amended at 26 Ill. Reg. 9319, effective June 17, 2002; amended at 27 Ill. Reg. 10009, effective June 23, 2003; emergency amendment at 27 Ill. Reg. 17270, effective November 10, 2003, for a maximum of 150 days; Section 650.60 of the emergency rules expired April 8, 2004; amended at 28 Ill. Reg. 353, effective December 19, 2003; amended at 28 Ill. Reg. 8039, effective May 26, 2004; amended at 29 Ill. Reg. 9718, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13025, effective August 10, 2005, for a maximum of 150 days; emergency expired January 1, 2006; amended at 30 Ill. Reg. 12155, effective June 28, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 650.10 Statewide Season and Permit Quotas

- a) Season: 12:01 a.m. on Friday of the 3-day (Friday, Saturday and Sunday) weekend immediately before Thanksgiving to 6:00 p.m. on Sunday of the 3-day weekend before Thanksgiving, and 12:01 a.m. on Thursday of the first 4-day (Thursday, Friday, Saturday and Sunday) weekend following Thanksgiving to 6:00 p.m. on Sunday of the first 4-day weekend following Thanksgiving. Full season permits shall be for all days. Second season permits shall be valid for the last four days of the season only. Hunting hours are one-half hour before sunrise to sunset.
- b) Permit quotas shall be set by the Department of Natural Resources (Department) on a county or special hunt area basis. Cook, DuPage and Lake Counties ([except for Chain O'Lakes State Park](#)); and that portion of Kane County east of State Route 47, are closed to firearm deer hunting.
- c) Hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 and maximum \$5,000 fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). Hunting during the closed season or between sunset and ½ hour after sunset is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 650.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Firearm Deer Permit" (\$15). Fees for non-resident deer hunters shall be \$250 for each either-sex or antlered-only deer hunting permit, and shall be \$15 for each antlerless-only permit. A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, until the Random Daily Drawing Period that begins in September, at which time antlerless-only permits remaining in the quota will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources
(Firearm or Landowner/Tenant or Non-Resident)
Deer Permit Office
P.O. Box 19227
Springfield, Illinois 62794-9227

- b) Applications from Illinois residents for participation in the First Lottery Drawing will be accepted through the last weekday in April of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after the last weekday in April will not be included in this lottery. Permits will be allocated in a computerized random drawing. Permits will be issued as either sex, antlerless only, or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Applicants for free landowner/tenant permits are not eligible to participate in the First or Second Lottery Drawings. Landowners who receive permits in the First or Second Lottery Drawing are not eligible for landowner permits. [Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident deer permit.](#)
- c) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the deadline established in subsection (b).
- d) Applicants must check the second-season box if they agree to accept a second-

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season permit upon being rejected for a full-season permit.

- e) Applicants must check the antlerless-only box and provide an additional \$15 to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- f) Permits for counties and special hunt areas with unfilled quotas after the First Lottery Drawing will be allocated in a Second Lottery Drawing. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued firearm permits for the current hunting season. Illinois residents will be given preference for permits allocated in the Second Lottery Drawing. Applications for the Second Lottery Drawing will be accepted through the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and providing an additional \$15. A list of unfilled counties and special hunt areas will be announced upon becoming available after the First Lottery Drawing. Applicants must apply on a current year Firearm Deer Permit application form. A maximum of one either-sex and one antlerless-only permit shall be issued per person.
- g) There will be an application period which starts the first working day after September 14 and ends the fifth weekday in November, during which anyone (regardless of any other permit they may have, subject to subsection (a)) can apply for firearm deer permits left over from the county and special hunt area quotas. During this application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this application period. Applicants submitting applications within the 20 working days prior to the start of the first season cannot be guaranteed a permit by the start of the first deer hunting season. Applicants must mark the "September Drawing – Multiple Permits" box on the firearm deer permit application.
- h) Hunter preference in obtaining a permit during the First Lottery Drawing will be given: to individuals that applied for an either-sex permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choices; or to applicants that received, in the previous year, a second season

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either-sex permit in the First Lottery Drawing only. In order to be eligible for preference during the First Lottery Drawing, the second season box must have been checked on the application form of unsuccessful applicants when they were rejected. Preference will not be granted to applicants who received a full-season either-sex permit but who did not receive an antlerless-only permit. Persons with lottery preference will have first chance at receiving available either-sex permits. The following criteria must be met to obtain a preference in the First Lottery Drawing:

- 1) The applicant must apply using the official Department application.
 - 2) The applicant must be a resident of the State, be eligible to receive a Firearm Deer Permit, and not had deer hunting privileges revoked pursuant to Section 650.50.
 - 3) The applicant must apply for the same county choices that he/she listed on the previous year's application. Preference will not be granted for special hunt areas.
- i) Applications may be accepted at the counter window of the permit office; however, permits will be mailed. In-person, mail-in and electronic applications will receive equal treatment in the drawings.
 - j) Permits are not transferable. Refunds will not be granted, unless the Department of Natural Resources has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
 - k) A \$3 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.
 - l) The periods for accepting applications for the First and Second Lottery periods may be extended if applications are not available to the public by April 1. A news release will announce the extension of the application periods.
 - m) Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 650.22 Deer Permit Requirements – Special Hunts

- a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, which issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for the following sites listed below, in addition to the Department-owned or -managed sites listed in Section 650.60(i). The permit preference system does not apply to special hunt areas or to State sites allocating permits in the lottery.

Burning Star 5 (only antlerless deer or antlered deer having at least 4 points on one side may be harvested)

1) Crab Orchard National Wildlife Refuge (the first and second season are considered separate hunt choices, and permit applicants must specify which season they are applying for in the County Choice or Hunt Area field of the application. Permits may be issued as antlerless-only without the normal bonus requirement. Standby hunting will be allowed if additional permits are available at the site)

2) Crab Orchard National Wildlife Refuge – Disabled Hunt (first season only)

3) Joliet Army Training Area (Will County)

4) Lake Shelbyville Project Lands (Moultrie County) (it is unlawful to drive deer)

5) Lake Shelbyville Project Lands except Wolf Creek State Park (Shelby County) (it is unlawful to drive deer)

Lost Mound Unit – Upper Mississippi River National Wildlife and Fish Refuge (first season only; permit drawing will be conducted by USFWS; preference given to disabled hunters; bonus permits will be issued at site; antlerless deer only except that either-sex bonus permits may be sold to hunters who previously harvested an antlerless deer on site that season)

6) Midewin National Tallgrass Prairie (no handguns allowed; additional site pass is required; check-in, check-out and reporting of harvest is required)

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- b) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38). Hunting deer prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a \$500 minimum and \$5,000 maximum fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). Taking an antlered deer with an antlerless permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Hunting after sunset or outside the set season is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 650.60 Regulations at Various Department-Owned or -Managed 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) It is unlawful to drive deer, or participate in a deer drive, on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within firearm range of one or more participating hunters.
- c) Only one tree stand is allowed per deer permit holder. These tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15-January 31 at those sites listed in this Section that are followed by a (1). Any tree stand left unattended overnight must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- d) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (3).
- f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Statewide regulations shall apply at the following sites:

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Cache River State Natural Area (1) (2)

Campbell Pond (1) (2)

[Cape Bend Fish and Wildlife Area \(1\) \(2\)](#)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area)

Chauncey Marsh (1) (2)

[Collie Limestone Glade State Natural Area \(1\)](#)

Crawford County Conservation Area (1) (2)

[Cretaceous Hills State Natural Area \(1\)](#)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Devil's Island Wildlife Management Area

Dog Island Wildlife Management Area (1) (2)

Ferne Clyffe State Park [Cedar/Draper Bluff Hunting Area](#) (1) (2)

Fort de Chartres State Historic Site (muzzleloading rifles only; no in-line muzzleloading rifles or muzzleloaders with scopes allowed) (1) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Hamilton County Conservation Area (1) (2)

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Horseshoe Lake [Fish and Wildlife Conservation](#) Area – Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

Kaskaskia River Fish and Wildlife Area (1) (2, except south of Highway 154 and north of Highway 13) (during each day of the second firearm deer season, hunting within the Doza Creek Waterfowl Management Area is open from 1:00 p.m. until sunset and firearm deer hunters may not enter the area until 11:00 a.m.; antlerless deer only)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Lake Le Aqua Na State Park (standby hunting allowed during the first season if all blinds not filled by youth hunters)

[Lusk Creek Canyon State Natural Area](#) (1)

Meeker State Habitat Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Miller-Anderson Woods State Natural Area (Bureau County permit holders may hunt the Bureau County portion of the Area and Putnam County permit holders may hunt the Putnam County portion of the Area) (2)

Mississippi Fish and Waterfowl Management Area – Pools 25 and 26 (1)

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Newton Lake Fish and Wildlife Area (2)

Oakford Conservation Area (1)

Pere Marquette State Park (1) (2)

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~~Rend Lake Fish and Wildlife Area and Corps of Engineers' managed areas of Rend Lake Project Lands and Waters (1)~~

Saline County Fish and Wildlife Area (1) (2)

Sanganois State Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting seasons) (1)

Sielbeck Forest Natural Area (1) (2)

Skinner Farm State Habitat Area (1) (2)

Ten Mile Creek Fish and Wildlife Area (1); Belle Rive Unit only (3)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

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

~~Weinberg King State Park (2)~~

Weinberg-King State Park – Spunky Bottoms Unit (2)

Wildcat Hollow State Forest (1)

- h) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (5). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, unless exempt. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5. All hunters must check out and report harvest. In the event that Department budget reductions or site staffing reductions make the operation of check stations or issuance of standby permits impractical, changes to check

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station procedures and standby permit issuance will be publicly announced and posted at the site.

Apple River Canyon State Park – Thompson and Salem Units (first or second season only) (2)

Argyle Lake State Park (2) (5)

Big River State Forest (2) (5)

Castle Rock State Park (first or second season only) (all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit) (1) (2) (5)

Cedar Glen State Natural Area (1) (2)

[Chain O'Lakes State Park \(first season permits only; an antlerless deer permit must be filled before filling an either-sex permit; hunting from elevated stands only, 6 feet minimum above the ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department; all hunters must attend a site lottery drawing for designated hunter stations\) \(1\) \(2\)](#)

Clinton Lake State Recreation Area (only in the area between County Highway 14 and State Route 48 – both sides of lake) (1)

Coffeen Lake State Fish and Wildlife Area

Des Plaines Conservation Area (first season only) (2) (5)

Falling Down Prairie State Natural Area (first or second season only) (2)

[Ferne Clyffe State Park - Ferne Clyffe Hunting Area \(1\) \(2\)](#)

Fort Massac State Park (second season only) (antlerless deer only) (2)

Fox Ridge State Park (1)

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Franklin Creek State Natural Area (first or second season only) (all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit) (2) (5)

French Bluff State Natural Area [\(1\)](#) [\(2\)](#)

Goose Lake Prairie State Natural Area/Heidecke State Fish and Wildlife Area (first or second season only) (2) (5)

Green River State Wildlife Area (first or second season only) (1) (2) (5)

Hanover Bluff State Natural Area (first or second season only) (2)

Harry "Babe" Woodyard State Natural Area (2) (3)

Hidden Springs State Forest (1)

Horseshoe Lake Conservation Area – Alexander County (Refuge, second Saturday and Sunday in November; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex permit) (2)

Hurricane Creek Habitat Area

Iroquois County Conservation Area (first season only) (2) (5)

Iroquois County Conservation Area (second season only; no hunting in the controlled pheasant hunting area) (2) (5)

Jim Edgar Panther Creek State Fish and Wildlife Area (1) (3)

Jubilee College State Park (first or second season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit; hunting during the 2006 firearm deer season is prohibited in marked zones (handicapped hunt area and areas within 300 yards of an inhabited dwelling); the 300 yard restricted zone is a pilot program that will be re-assessed with input from adjoining landowners prior to the 2007 firearm hunting season; only one tree

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stand is allowed per deer permit holder; these tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable; tree stands may be erected the day before the first season and must be removed by the day after the end of the second season; any tree stand left unattended overnight must be legibly marked with the owner's name, address, and telephone number) (2) (5)

Kaskaskia River Fish and Wildlife Area (Baldwin Lake Rest Area; first or second season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they [can purchase will be issued](#) an either-sex [site-specific stand by](#) permit; hunting from elevated stands only; six feet minimum above ground; hunting must occur within 10 yards of an assigned, numbered stake; an inhouse drawing will be held in mid-October for such assignments; hunters will be notified by mail of their hunting location; no hunters may enter the area before 5:00 a.m.) (1) (2) (5 - last 2 days of second season)

Kickapoo State Recreation Area (2)

Kishwaukee River State Fish and Wildlife Area (first or second season only)

Lowden-Miller State Forest (first or second season only) (1) (2) (5)

Mackinaw River Fish and Wildlife Area (1) (2) (5)

Marseilles Fish and Wildlife Area (first or second season only) (all tree stands must be removed no later than the last day of the archery deer season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2) (5)

Marshall Fish and Wildlife Area (2) (5)

Middle Fork Fish and Wildlife Area (2)

Mississippi Palisades State Park (first season only) [\(1\) \(2\) \(5\)](#)

Mitchell's Grove Nature Preserve (first or second season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the

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current year firearm season on site before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program) (2) (5)

Momence Wetlands

Moraine Hills State Park (first or second season permits only; an antlerless deer permit must be filled before filling an either sex permit, hunting from elevated stands only, 6 feet minimum above ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department) (2) (5)

Morrison-Rockwood State Park (first season only) (5)

Pyramid State Park (2) (3)

Pyramid State Park – East Conant Unit (3)

Pyramid State Park – Galum Unit (3)

Ray Norbut Fish and Wildlife Area (2) (5)

Sahara Woods (1) (2)

Sand Ridge State Forest (2)

Sandy Ford State Natural Area (first or second season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program) (2) (5)

Sangamon County Conservation Area (1)

Siloam Springs State Park (2) (3)

Spoon River State Forest (first or second season only) (1) (2)

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Starved Rock/Matthiessen State Park/Margery C. Carlson Nature Preserve (first or second season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; standby hunters may purchase up to 2 one-day site-specific antlerless-only permits each day) (2) (5)

Tapley Woods State Natural Area (first or second season only) (2)

Wards Grove Nature Preserve (first or second season only; antlerless only) (2)

[Weinberg-King State Park \(2\)](#)

Weinberg-King State Park – Scripps Unit (2) (~~3~~)

Weldon Springs State Park (Piatt County Unit; first season only)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the first statewide firearm deer season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit) (2) (5)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the second statewide firearm deer season only; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit) (2) (5)

Witkowsky State Wildlife Area (first or second season only) (2)

Wolf Creek State Park (participants in the Corps of Engineers special disabled hunt program are exempt from site's antler restrictions) (3)

- i) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 650.67 Special Hunts for Disabled Hunters

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- a) Statewide regulations shall apply; season dates shall be the Thursday, Friday, and Saturday immediately prior to the first firearm deer season, and the Thursday, Friday, and Saturday immediately following the second weekend of the regular firearm season unless otherwise noted in parentheses. Permit applications may be obtained from the appropriate [site Illinois Department of Natural Resources regional](#) office, and completed applications must be returned to that office by the third Friday in October. Disabled hunters must possess a Class P2A disability card in order to be eligible for the drawing. All participating hunters must show proof of passing the Illinois Hunter Safety Course or an equivalent State program for nonresidents unless otherwise noted in parentheses. Additional regulations will be publicly announced.

Clinton Lake State Recreation Area (Mascoutin State Park) (2)

Horseshoe Lake State Conservation Area (first Saturday and Sunday of November; participants other than disabled hunters must take an antlerless deer before taking an antlered deer) (1) (2) (5)

Jubilee College State Park (coincides with first firearm deer season; participants must take an antlerless deer during the current year firearm season on site before taking an antlered deer; hunter safety course not required) (2) (5)

Jubilee College State Park (coincides with second firearm deer season; participants must take an antlerless deer during the current year firearm season on site before taking an antlered deer; hunter safety course not required) (2) (5)

Rock Cut State Park (first Thursday, Friday and Saturday of November and the Tuesday, Wednesday and Thursday prior to the first statewide firearm deer season; participants other than disabled hunters must take an antlerless deer before taking an antlered deer) (2) (5)

Starved Rock State Park (coincides with first firearm deer season; [permit applications may be obtained from the site office and completed applications must be returned to that office by the third Friday in October](#); all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; hunter safety course not required) (2) (5)

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Starved Rock State Park (coincides with second firearm deer season; [permit applications may be obtained from the site office and completed applications must be returned to that office by the third Friday in October](#); all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; [antlerless deer only](#); hunter safety course not required) (2) (5)

- b) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 31 Ill. Re g. _____, effective _____)

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- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Muzzleloading Rifles
- 2) Code Citation: 17 Ill. Adm. Code 660
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
660.20	Amendment
660.22	Amendment
660.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being updated to: make Statewide program changes, update the list of State-owned and -managed sites open for hunting, and to amend procedures at State sites.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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

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217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 660

WHITE-TAILED DEER HUNTING BY USE
OF MUZZLELOADING RIFLES

Section

660.10	Statewide Season and Permit Quotas
660.20	Statewide Deer Permit Requirements
660.21	Deer Permit Requirements - Landowner/Tenant Permits
660.22	Deer Permit Requirements – Special Hunts
660.25	Deer Permit Requirements – Group Hunt
660.30	Statewide Muzzleloading Rifle Requirements
660.40	Statewide Deer Hunting Rules
660.45	Reporting Harvest
660.50	Rejection of Application/Revocation of Permits
660.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 15 Ill. Reg. 11627, effective August 2, 1991; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. 6500, effective April 28, 1995; amended at 20 Ill. Reg. 6734, effective May 6, 1996; amended at 21 Ill. Reg. 5583, effective April 19, 1997; amended at 21 Ill. Reg. 9122, effective June 26, 1997; amended at 22 Ill. Reg. 8026, effective April 28, 1998; amended at 23 Ill. Reg. 5579, effective April 26, 1999; amended at 24 Ill. Reg. 10251, effective July 1, 2000; amended at 25 Ill. Reg. 6367, effective April 27, 2001; amended at 26 Ill. Reg. 9340, effective June 17, 2002; amended at 27 Ill. Reg. 10018, effective June 23, 2003; amended at 28 Ill. Reg. 8056, effective May 26, 2004; amended at 29 Ill. Reg. 9744, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13032, effective August 10, 2005, for a maximum of 150 days; emergency expired January 6, 2006; amended at 30 Ill. Reg. 12181, effective June 28, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 660.20 Statewide Deer Permit Requirements

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- a) Illinois resident hunters must have a current, valid Muzzleloading Rifle Deer Permit (\$15). Fees for non-resident deer hunters shall be \$250 for each either-sex or antlered-only deer hunting permit, and shall be \$15 for each antlerless-only permit. A permit is issued for one county and is valid only in the county stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, until the Random Daily Drawing Period that begins in September, at which time antlerless-only permits remaining in the quota will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources
(Muzzleloading Rifle)
Deer Permit Office
P.O. Box 19227
Springfield, IL 62794-9227

- b) Applications from Illinois residents for participation in the First Lottery Drawing shall be accepted through the last weekday in April of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after the last weekday in April shall not be included in this lottery. Permits shall be allocated in a computerized random drawing. Permits shall be issued as either-sex, antlerless-only or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident deer permit.
- c) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the last weekday in April of the current year.
- d) Applicants must check the antlerless-only box and provide an additional \$15 to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- e) Permits for counties and special hunt areas with unfilled quotas after the First

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Lottery Drawing shall be allocated in a Second Lottery Drawing. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued muzzleloader permits for the current hunting season. Illinois residents will be given preference for permits allocated in the Second Lottery Drawing. Applications for the Second Lottery Drawing will be accepted through the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and providing an additional \$15. A list of unfilled counties shall be announced upon becoming available after the First Lottery Drawing. Applicants must apply on a current year Muzzleloading Rifle Deer Permit application form. A maximum of one either-sex and one antlerless-only permit shall be issued per person.

- f) There will be an application period which starts the first working day after September 14 and ends the fifth weekday in November during which anyone (regardless of any other permit they may have, subject to the restriction in subsection (a)) can apply for muzzleloading deer permits left over from the county and special hunt area quotas. During this application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this application period. Applicants must mark the September Drawing – Multiple Permits box on the muzzleloading rifle deer permit application.
- g) Hunter preference in obtaining a muzzleloading rifle permit during the First Lottery Drawing shall be given to individuals that applied for an either-sex muzzleloading permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choices. The following criteria must be met to obtain a preference in the muzzleloading rifle First Lottery Drawing:
- 1) The applicant must apply using the official agency preprinted data-mailer application.
 - 2) The applicant must be a resident of the [Statestate](#), be eligible to receive a Muzzleloading Rifle Deer Permit, and not had deer hunting privileges revoked pursuant to Section 660.50.

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- 3) The applicant must apply for the same county choices that he/she listed on the previous year's application. Preference will not be granted for special hunt areas.
- 4) Where applicants apply as a group, preference for the entire group shall apply as it does above for the individual. All county choices for the group must be identical.
- h) Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed. In-person, mail-in and electronic applications will receive equal treatment in the drawings.
- i) Permits are not transferable. Refunds shall not be granted unless the Department of Natural Resources has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- j) A \$3 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.
- k) The period for accepting applications for the First and Second Lottery periods shall be extended if applications are not available to the public by April 1. A news release will announce the extension of the application period.
- l) Hunting without a permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Providing false information on a permit application is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 660.22 Deer Permit Requirements – Special Hunts

- a) Special hunt sites are defined as those sites ~~that~~which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, ~~and that~~which issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for the following

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sites ~~listed below~~, in addition to the Department-owned or -managed sites listed in Section 660.60(h).

Burning Star 5 (areas designated as waterfowl refuge are closed to all access after second firearm deer season; only antlerless deer or antlered deer having at least 4 points on one side may be harvested)

Delair Division, ~~Great River~~~~Mark Twain~~ National Wildlife Refuge (second 2-day (Saturday and Sunday) weekend in January)

Midewin National Tallgrass Prairie (closed during the second firearm deer season; additional site pass is required; check-in, check-out and reporting of harvest is required)

- b) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38). Hunting deer outside the special season dates or prior to ½ hour before sunrise or after sunset on the listed property is a Class A misdemeanor with a \$500 minimum and \$5,000 maximum fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(y)).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 660.60 Regulations at Various Department-Owned or -Managed 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) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15-January 31 at those sites listed in this Section that are followed by a (1). Any tree stand left unattended overnight must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- c) It is unlawful to drive deer or participate in a deer drive on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within firearm range of one or more participating hunters.

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- d) Check-in, check-out and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- e) Handicapped preferred hunting opportunities are provided at those sites listed in this Section that are followed by a (3).
- f) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- h) Statewide regulations shall apply at the following sites:

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Cape Bend Fish and Wildlife Area (1) (2) |

Carlyle Lake Wildlife Management Area except subimpoundment areas

Carlyle Lake Lands and Waters – Corps of Engineers managed lands

Chauncey Marsh (1) (2)

Collier Limestone Glade State Natural Area (1) |

Crawford County Fish and Wildlife Area (1) (2)

Cretaceous Hills State Natural Area (1) |

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

DEPARTMENT OF NATURAL RESOURCES

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Devil's Island Wildlife Management Area

Dog Island Wildlife Management Area (1) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres Historic Site (no in-line muzzleloading rifles or muzzleloaders with scopes allowed) (1) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Hamilton County Fish and Wildlife Area (1) (2)

Horseshoe Lake Fish and Wildlife Conservation Area – Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

Kaskaskia River Fish and Wildlife Area (1) (2, except south of Highway 154 and north of Highway 13) (Doza Creek Waterfowl Management Area is closed during duck season)

Kickapoo State Park (closed during second firearm deer season) (1) (2)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Lusk Creek Canyon State Natural Area (1)

Meeker State Habitat Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (closed during second firearm deer season) (1) (2)

Miller-Anderson Woods State Natural Area (Bureau County permit holders may hunt the Bureau County portion of the area and Putnam County permit holders may hunt the Putnam County portion of the area) (2)

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Mississippi River Pool 16 (1)

Mississippi River Pool 17 (1)

Mississippi River Pool 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Mississippi Fish and Waterfowl Management Area – Pools 25 and 26 (1)

Oakford Conservation Area (1)

Pere Marquette State Park (hunting in designated area only) (1) (2)

Pyramid State Park (2) (4)

Ray Norbut Fish and Wildlife Area (2)

Rend Lake State Fish and Wildlife Area Corps of Engineers' managed areas of Rend Lake Project Lands and Waters (1)

Saline County Fish and Wildlife Area (1) (2)

Sand Ridge State Forest (site issued permit required; must be returned by February 15)

Sanganois Fish and Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting seasons) (1)

Sielbeck Forest Natural Area (1) (2)

Skinner Farm State Habitat Area (1) (2)

Ten Mile Creek Fish and Wildlife Area (1); Belle Rive Unit only (4)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

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

Weinberg-King State Park (2)

Weinberg-King State Park - Scripps Unit (2)

Weinberg-King State Park – Spunky Bottoms Unit (2)

Wildcat Hollow State Forest (1)

- i) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (6). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, if required. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5. All hunters must check out and report harvest. In the event that Department budget reductions or site staffing reductions make the operation of check stations or issuance of standby permits impractical, changes to check station procedures and standby permit issuance will be publicly announced and posted at the site.

Apple River Canyon State Park – Thompson and Salem Units (closed during the second firearm deer season) (2)

Castle Rock State Park (closed during second firearm season; all initial permits will be issued as antlerless only; hunters must take an antlerless deer on the site during the current year firearm or muzzleloader season before they will be issued an either-sex standby permit) (2) (6)

Cedar Glen State Natural Area (1) (2)

Clinton Lake State Recreation Area (North Fork Management Unit, north of the county road at the North Fork boat ramp) (1)

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Falling Down Prairie (closed during the second firearm deer season) (2)

French Bluff State Natural Area (1) (2)

Hanover Bluff State Natural Area (closed during the second firearm deer season) (2)

Hidden Springs State Forest (closed during second firearm deer season)
(1) (2)

Jim Edgar Panther Creek State Fish and Wildlife Area – Open Unit
(closed during second firearm deer season; site issued permit required,
must be returned by February 15) (1) (4)

Lake Shelbyville Project in Moultrie County (closed during the second
firearm deer season; antlerless only)

Lake Shelbyville Project in Shelby County (closed during the second
firearm deer season; antlerless only)

Marseilles Fish and Wildlife Area (closed during second firearm deer
season) (all tree stands must be removed from this area no later than
sunset of the last day of archery deer season; unauthorized personnel may
not be on the site outside of the posted check station operating hours;
hunters may enter the site only from designated parking lots) (1) (2) (6)

~~Midewin National Tallgrass Prairie (closed during the second firearm deer
season)~~

Mitchell's Grove Nature Preserve (closed during the second firearm deer
season; all initial permits will be issued as antlerless only; hunters must
take an antlerless deer on the site during the current year firearm or
muzzleloader season before they will be issued an either-sex standby
permit; hunters must check antlerless deer with site staff for verification to
participate in the bonus buck program; standby permits are available at the
Matthiessen State Park check station) (2) (6)

Pyramid State Park – East Conant Unit (4)

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Sahara Woods (1) (2)

Sandy Ford State Natural Area (closed during the second firearm deer season; all initial permits will be issued as antlerless only; hunters must take an antlerless deer on the site during the current year firearm or muzzleloader season before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in the bonus buck program; standby permits are available at the Matthiessen State Park check station) (2) (6)

Sangchris Lake State Park (open to muzzleloading rifle hunting during the second firearm deer season only; antlerless deer only; hunting will begin the first day at legal shooting time and at 10:30 a.m. on all other days of the season) (1) (2)

Sangamon County Conservation Area (closed during second firearm deer season) (1)

Spoon River State Forest (closed during second firearm deer season) (1) (2)

Starved Rock State Park/Matthiessen State Park/Margery C. Carlson Nature Preserve (closed during the second firearm deer season; hunt is open in Zone A; all initial permits will be issued as antlerless only; hunters must take an antlerless deer on the site during the current year firearm or muzzleloader season before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in the bonus buck program; standby hunters may purchase up to 2 one-day site-specific antlerless-only permits each day) (2) (6)

Tapley Woods State Natural Area (closed during the second firearm deer season) (2)

Wards Grove Nature Preserve (closed during the second firearm deer season; antlerless deer only) (2)

Witkowsky State Wildlife Area (closed during the second firearm deer season) (2)

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j) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
670.20	Amendment
670.30	Amendment
670.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: make Statewide program changes, update the list of State-owned and -managed sites open for hunting and to amend procedures at State sites.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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

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217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section

670.10	Statewide Open Seasons and Counties
670.20	Statewide Deer Permit Requirements
670.21	Deer Permit Requirements – Landowner/Tenant Permits
670.30	Statewide Legal Bow and Arrow
670.40	Statewide Deer Hunting Rules
670.50	Rejection of Application/Revocation of Permits
670.55	Reporting Harvest
670.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7995, effective April 28, 1998; amended at 23 Ill. Reg. 6829, effective May 20, 1999; amended at 24 Ill. Reg. 6908, effective April 20, 2000; amended at 25 Ill. Reg.

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7217, effective May 22, 2001; amended at 25 Ill. Reg. 11471, effective August 14, 2001; amended at 26 Ill. Reg. 9356, effective June 17, 2002; amended at 27 Ill. Reg. 10025, effective June 23, 2003; amended at 28 Ill. Reg. 9968, effective July 6, 2004; amended at 29 Ill. Reg. 9761, effective June 24, 2005; amended at 30 Ill. Reg. 12196, effective June 28, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 670.20 Statewide Deer Permit Requirements

- a) All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits (except landowner/tenant property-only permits and nonresident permits issued to clients of outfitters as detailed in Section 670.20(c)) will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. Nonresident archery deer permits issued to outfitter clients who received a permit based on the preference given to outfitter clients are valid only on property controlled by the outfitter used to gain preference.
- b) Resident archery deer permits are available over-the-counter (OTC) from license vendors throughout the State as combination permits, each consisting of one either-sex permit and one antlerless-only permit, or as a single antlerless-only permit. The fee for a resident archery combination permit shall be \$25; a resident archery single antlerless-only permit shall be \$15. While there is no limit to the number of archery deer permits that an individual resident may purchase, no one may harvest more deer than allowed by the restrictions prescribed in Section 670.40. Lifetime licenses issued after August 15, 2006 shall not qualify a nonresident of Illinois for a resident deer permit.
- c) A limited number of nonresident archery deer permits is available as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for the nonresident combination archery deer permit shall be \$365. Nonresident hunters may apply during the period June 1 through June 30 via telephone using DNR's telephone vendor system (1-888-673-7648). The number of nonresident combination archery deer permits shall be limited to 20,000, with clients of outfitters currently permitted by the Department of Natural Resources given preference in the drawing for the first 7,500. Clients of permitted outfitters should contact the outfitter prior to applying to receive a certification number to be used in the application process to verify their outfitter client status. Permits will be allocated using a computerized, random lottery drawing conducted after June 30. If the number of eligible outfitter clients in the drawing is less than

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7,500, all remaining permits will be allocated to the remaining applicants until the quota is reached. If the number of eligible outfitter clients in the drawing exceeds 7,500, those outfitter clients unsuccessful in obtaining one of the first 7,500 permits will compete against non-client applicants for the remaining permits. Permits available after the lottery will be sold on a first come-first served basis. Applicants may submit only one application for the nonresident combination archery deer permit. Up to six individuals may apply for nonresident combination archery permits as a group. Groups must identify a group leader, and all applicants must provide the same group leader information at the time of application. If applying for permits given preferentially to clients of outfitters, all group applicants must also provide the same outfitter certification number.

- d) An unlimited number of nonresident single antlerless-only archery deer permits is available over-the-counter (OTC) from participating license vendors for a fee of \$15.
- e) Hunters purchasing archery deer permits must supply all necessary applicant information to the license vendor in order to properly complete the permit.
- f) Applications for landowner/tenant permits may be obtained by writing to:

Department of Natural Resources
L/T Deer Permit
P.O. Box 19227
Springfield IL 62794-9227

To obtain a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his/her individual application.

- g) Permits are not transferable. Refunds will not be granted.
- h) A \$3 service fee will be charged for replacement permits issued by DNR, except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.

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- i) Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 670.30 Statewide Legal Bow and Arrow

- a) The only legal hunting devices to take, or attempt to take, deer are: a long, recurved, or compound bow with 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 a minimum ? inch in diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking devices utilizing radio telemetry systems, are illegal.
- b) A crossbow device is illegal except as provided by Section 2.26 of the Wildlife Code [520 ILCS 5/2.26]. It is unlawful to carry any firearm or sidearm while hunting deer with a bow and arrow.
- c) Any mechanical device capable of maintaining a drawn or partially drawn position on a bow without the hunter exerting full string tension is illegal, unless authorized for eligible disabled persons by 17 Ill. Adm. Code 760.
- d) Use of an unlawful device is a Class B misdemeanor (see 520 ILCS 5/2.24), except that unlawful use of a crossbow is a Class A misdemeanor with a minimum \$500 and maximum \$5,000 fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(o)).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 670.60 Regulations at Various Department-Owned or -Managed 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.

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- b) It is unlawful to drive deer, or participate in a deer drive, on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within archery range of one or more participating hunters.
- c) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1). Any tree stand left unattended must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- d) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- e) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).
- f) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- h) Statewide regulations shall apply at the following sites:
 - * Anderson Lake Fish and Wildlife Area (2)
Apple River Canyon State Park - Thompson and Salem Units (2)
Argyle Lake State Park (2)
 - * Banner Marsh Fish and Wildlife Area (2)
 - * Beall Woods State Park (1) (2)
 - * Big Bend State Fish and Wildlife Area (1) (2)

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Big River State Forest (2)

Burning Star 5 (areas designated as waterfowl refuge are closed to all access after second firearm deer season) (4)

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Cape Bend Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area is closed 7 days prior to and during the regular waterfowl season; lands bounded on the east by "C" levee, south by "D" levee, west by ACOE property line, and including the posted area west of parking lot #2, will be open the entire archery deer hunting season)

Castle Rock State Park (1) (2)

Cedar Glen State Natural Area (no hunting after December 15) (1) (2)

Collier Limestone Glade State Natural Area (1)

Crawford County Conservation Area (1) (2)

Cretaceous Hills State Natural Area (1)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Devil's Island Wildlife Management Area

Dixon Springs State Park (1) (2)

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Dog Island Wildlife Management Area (1) (2)

- * Eldon Hazlet State Park (Hunting is only permitted north of Allen Branch, north of Hazlet Park Road between the park boundary and its intersection with Allen Branch Road, north of Allen Branch Road between its intersection with Hazlet Park Road and Allen Branch Boat Access Area, and west of Peppenhorst Branch. Hunting is not permitted in the controlled pheasant area during the site's controlled pheasant season (except on days when controlled pheasant hunting is closed) and the five consecutive days following the site's controlled pheasant season, or in the North Allen Branch Waterfowl Management Unit after the opening of the statewide waterfowl season. Additionally, a limited hunting opportunity exists for persons with disabilities west of the main park road going towards the Illini Campground. Disabled hunters as defined in 520 ILCS 5/3.1(c) may register to hunt at the site office and must sign in and out daily. Disabled hunters are required to hunt with a non-disabled partner who may also hunt from pre-determined locations. Disabled hunters may hunt during the statewide archery season as described in Section 670.10, except on days when the site's controlled pheasant hunting is open and the 5 consecutive days following the site's controlled pheasant season.) (2)

Falling Down Prairie (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (1) (2)

- * Fort Kaskaskia State Historic Site (opens November 1; antlerless deer only) (2)

Fort Massac State Park (1) (2)

Franklin Creek State Natural Area (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

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Green River State Wildlife Area (1) (2)

Hanover Bluff State Natural Area (2)

Horseshoe Lake Conservation Area – Alexander County (Controlled Goose Hunting Area – open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1) (2)

Ilo Dillin State Habitat Area (hunting allowed during October only) (2)

Iroquois County State Wildlife Area/Hooper Branch only (1) (2)

* Jubilee College State Park (2)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season; a limited hunting opportunity for persons with disabilities, Class P2A, exists at the Davis Creek Bike Trail Area; disabled hunters must register to hunt at the site office and must sign in and out daily; disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during the disabled hunting season (November 1 to the day before the first firearm deer season, except campground blinds will remain open until the close of the archery deer season and do not require a partner to hunt)) (2)

Kaskaskia River Fish and Wildlife Area (no hunting within 50 yards of the Baldwin Lake Waterfowl Rest Area's main north-south road; within this defined waterfowl rest area and during the current year archery season, hunters must take an antlerless deer before taking an antlered deer; this defined waterfowl rest area is closed until the observed Columbus Day holiday) (1) (2 – except south of Highway 154 and north of Highway 13)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

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Kishwaukee River State Fish and Wildlife Area (2)

Lake Le Aqua Na State Park (antlerless deer only; November 1-30; hunting hours legal opening until 10:00 a.m.) (2)

Little Rock Creek State Habitat Area (opens statewide opening date; however, site closes for archery deer hunting at the end of legal shooting hours the day preceding the opening of the north zone upland season and reopens the day after the close of the north zone upland season and runs until the statewide season closes) (1) (2)

Lincoln Trail State Park (November 1 through the end of statewide season; an antlerless deer must be taken on the site before an antlered deer is harvested) (2)

Lowden-Miller State Forest (1) (2)

Lusk Creek Canyon State Natural Area (1)

Mackinaw River Fish and Wildlife Area (1) (2)

Marseilles Fish and Wildlife Area (closed Friday, Saturday, and Sunday in October only) (all tree stands must be removed from this area no later than the last day of the season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (2)

Maytown Pheasant Habitat Area (hunting allowed during October only) (2)

Mazonia/Braidwood State Fish and Wildlife Area (2) (4)

Mermet Lake Conservation Area (1) (2)

Midwin National Tallgrass Prairie (additional site hunting pass required) (2)

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Miller-Anderson Woods State Natural Area (2)

Mississippi Fish and Waterfowl Management Area – Pools 25 and 26 (Batchtown, Crull Hollow, and Godar Rest Areas reopen to hunting the day after duck season closes) (1)

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Mitchell's Grove Nature Preserve (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; closed during the muzzleloading deer season) (2)

Momence Wetlands State Natural Area (1) (2)

Morrison Rockwood State Park (opens on the day following the close of the first firearm deer season) (1) (2)

* Mt. Vernon Propagation Center (1) (2)

Nauvoo State Park (Max Rowe Unit Only)

Oakford Conservation Area

* Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1) (2)

Pere Marquette State Park (area east of Graham Hollow Road) (1) (2)

Pyramid State Park (2) (4)

* Randolph County Conservation Area (1) (2)

Rauchfuss Hill State Recreation Area (1) (2)

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Ray Norbut Fish and Wildlife Area (2)

* Red Hills State Park (1) (2)

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake (an antlerless deer must be taken on the site before an antlered deer is harvested) ~~(1)~~

Rend Lake State Fish and Wildlife Area (refuge only (south of site headquarters) from October 1 through October 31; an antlerless deer must be taken on the site before an antlered deer is harvested) ~~(1)~~-(2)

* Rice Lake Fish and Wildlife Area (2)

~~* Rock Cut State Park (only during the special firearm deer hunt on the site; hunting from DNR established blind sites only; hunting limited to holders of Class P2A disability cards and escorts) (2) (3)~~

* Rockton Bog State Natural Area (2)

Saline County Fish and Wildlife Area (1) (2)

* Sam Parr State Park (1) (2)

Sandy Ford State Natural Area (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; archery deer hunting is closed during the muzzleloader deer season) (2)

Sangamon County Conservation Area

Sanganois State Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting seasons) (1)

* Shabbona Lake State Park (2)

Sielbeck Forest Natural Area (1) (2)

Siloam Springs State Park (Fall Creek Unit)

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NOTICE OF PROPOSED AMENDMENTS

- * Silver Springs State Park (2)

Skinner Farm State Habitat Area (1) (2)

Spoon River State Forest (1) (2)
- * Starved Rock State Park/Matthiessen State Park/Margery C. Carlson Nature Preserve (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange during the statewide firearm deer seasons; open to archery deer hunting during the statewide firearm deer season only in Zone A) (2)

Tapley Woods State Natural Area (2)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (Controlled Goose Hunting Area – closed 7 days prior to the quota zone goose season through the close of the quota zone goose season) (1) (2)

Walnut Point Fish and Wildlife Area (1)

Wards Grove ~~State Natural Area~~Nature Preserve (closed during the statewide Youth Deer Hunting Season and Muzzleloader Deer Hunting Seasons; antlerless deer only) (2)
- * Washington County Conservation Area (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1) (2)

Weinberg-King State Park (2)

Weinberg-King State Park – Cecil White Unit

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Weinberg-King State Park - Spunky Bottoms Unit (resident hunters only)
(2)

White Pines Forest State Park (antlerless deer only in October, either-sex deer from November 1 through the end of archery season; hunting allowed on Mondays, Tuesdays, Wednesdays and Thursdays only – excluding official State holidays and the Thursday of the second portion of the statewide firearm deer season; closed during the site's special firearm deer seasons) (2)

Wildcat Hollow State Forest (1)

Witkowsky State Wildlife Area (opens October 15) (2)

- i) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:

Beaver Dam State Park (an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by December 31; failure to submit report shall result in the loss of hunting privileges at the site for the following year) (1)

Horseshoe Lake State Park (Madison County) (hunting in designated areas only; an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by December 31; failure to submit report shall result in the loss of hunting privileges at the site for the following year; hunting will close at end of regular duck season) (1)

Hurricane Creek Habitat Area (hunter quotas filled by drawing; must have Fox Ridge site permit to be eligible)

Pere Marquette State Park (hunting allowed in group camping areas only; season begins the first weekday after camps close)

Union County Conservation Area (refuge only; open first Friday, Saturday and Sunday in November)

- j) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be

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returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)

Clinton Lake State Recreation Area (an antlerless deer must be taken on the site before an antlered deer is harvested) (1)

Coffeen Lake State Fish and Wildlife Area

Des Plaines Conservation Area (archery deer hunting is closed in hunting areas open for the controlled upland game program on days the controlled upland game program is operating~~closed to archery deer hunting during the site's upland game hunting season~~) (2)

Des Plaines Game Propagation Center (2)

* Eagle Creek State Park (disabled hunters are exempt from site's antler restrictions) (4)

Fox Ridge State Park (1)

French Bluff State Natural Area

Goose Lake Prairie State Natural Area/Heidecke State Fish & Wildlife Area

Hamilton County Conservation Area (1)

Harry "Babe" Woodyard State Natural Area (4)

Hidden Springs State Forest (1)

* Horseshoe Lake State Park (Madison County – Gaberet, Mosenthein and Chouteau Island Units)

Kickapoo State Park

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Mautino State Fish and Wildlife Area (1)

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters) (1)

Middle Fork Fish and Wildlife Area

- * Mississippi Palisades State Park (November 1 through December 31; closed during the first firearm deer season) (1)

Newton Lake Fish and Wildlife Area (check deer at site office)

- * Pekin Lake Fish and Wildlife Area (1)

Pyramid State Park – Captain Unit (4)

Pyramid State Park – Denmark Unit (4)

Pyramid State Park – East Conant Unit (4)

Pyramid State Park – Galum Unit (4)

Ramsey Lake State Park (1)

- * Sam Dale Lake Conservation Area (1)

Sand Ridge State Forest

Shelbyville Fish and Wildlife Management Area (4)

- * Siloam Springs State Park – Buckhorn Unit (resident hunters only) (2) (4)

Snakeden Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)

- * Spring Lake Fish and Wildlife Area (1)

- * Stephen A. Forbes State Park (1)

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Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1); Belle Rive Unit only (4)

Weinberg-King State Park – Scripps Unit (resident hunters only) (2)

- k) Statewide regulations shall apply except that no hunting is permitted Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season; season reopens on December 26 till close of regular season; an antlerless deer must be taken on site before an antlered deer is harvested) (2) (3)

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Recreation Area (1) (2)

Moraine View State Park (1)

Wayne Fitzgerrell State Recreation Area (no bowhunting during controlled hunts as posted at the site) ~~(1)~~(2)

- l) Statewide regulations shall apply at the following sites except that:
- 1) Nonresident hunter quotas shall be filled by mail-in drawing. Information about specific drawing dates and application procedures will be publicly announced. Successful applicants will be issued a free permit from the site office. This permit must be in possession while hunting and must be returned and harvest reported to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.
 - 2) Resident hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned and harvest reported to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that

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site for the following year.

Jim Edgar Panther Creek State Fish and Wildlife Area (1) (4)

- * Sangchris Lake State Park (an antlerless deer must be taken on site before an antlered deer is harvested; site will be closed to archery deer hunting during the second firearm deer season) (1) (2) (4)

Siloam Springs State Park (2) (4)

- m) Statewide regulations shall apply at this site except that:

Hunter quotas for specific periods shall be filled by mail-in drawing. Only Illinois residents are eligible to apply. Information about drawing dates and application procedures will be publicly announced. Successful applicants will be issued a permit for the time period specified. This permit must be in possession while hunting and returned by February 15 to the site office. Failure to return the permit shall result in the forfeiture of hunting privileges at this site for the following year.

Hennepin Canal State Trail (hunters must stay in their designated zone; an antlerless deer must be taken on the site before an antlered deer may be taken) (2)

Moraine Hills State Park (an antlerless deer must be taken on the site before an antlered deer is harvested)

Sahara Woods State Fish and Wildlife Area (Illinois residents and non-residents are eligible for the drawing) (1) (2)

Saline County Fish and Wildlife Area

Volo Bog State Natural Area (an antlerless deer must be taken on the site before an antlered deer is harvested)

Weldon Springs State Park – Piatt County Unit (an antlerless deer must be taken on the site before an antlered deer is harvested)

Wolf Creek State Park (an antlerless deer must be taken on the site before

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an antlered deer is harvested; Illinois residents and non-residents are eligible for the drawing) (2) (4)

- n) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Pyrotechnic Distributor And Operator Licensing Rules

2) Code Citation: 41 Ill. Adm. Code 230

<u>Section Numbers:</u>	<u>Proposed Action:</u>
230.10	New
230.20	New
230.25	New
230.30	New
230.40	New
230.50	New
230.60	New
230.70	New
230.80	New
230.90	New
230.100	New
230.110	New
230.120	New
230.130	New
230.140	New
230.150	New
230.160	New
230.170	New
230.180	New
230.190	New
230.200	New
230.210	New
230.220	New
230.230	New
230.240	New
230.250	New
230.260	New
230.270	New
230.280	New
230.APPENDIX A	New
230.APPENDIX B	New

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- 4) Statutory Authority: Authorized by and implementing Section 4.1 of the Fireworks Use Act [425 ILCS 35/4.1] and Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30]
- 5) A Complete Description of the Subjects and Issues Involved: The issues involved are the proper licensing of professional and consumer operators to conduct pyrotechnic displays and flame effect display in an outdoor setting in a safe manner so there is no danger to the audience attending the event. The subjects involved are the use of explosives and flammable gases in pyrotechnic displays of a theatrical nature in an outdoor setting.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: The sources of underlying data used to compose this rulemaking consists of statutes and rules currently in effect in Illinois along with the text of the codes adopted by reference in these rules. Copies of those codes are available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL 62703.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed rules have impact on local government to the extent that local government units conduct or permit pyrotechnic displays.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Misty Matykiewicz
Director of the Fire Prevention Division
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/558-0639

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Facsimile: 217/782-1062

Email: misty.matykiewicz@ILLINOIS.GOV

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those small businesses that conduct or sponsor pyrotechnic displays.
 - B) Reporting, bookkeeping or other procedures required for compliance: Display reports are required from any licensed operator and distributor that conducts a pyrotechnic display.
 - C) Types of Professional skills necessary for compliance: Training and licensing by the Illinois Department of Natural Resources and the Federal Bureau of Alcohol Tobacco and Firearms.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: STATE FIRE MARSHALPART 230
PYROTECHNIC DISTRIBUTOR AND OPERATOR LICENSING RULES

Section	
230.10	Scope
230.20	Definitions
230.25	Incorporated and Referenced Materials
230.30	General Requirements for Pyrotechnic Displays
230.40	Compliance Standards
230.50	Qualifications for Distributor License
230.60	Qualifications for Limited Distributor License
230.70	Qualifications for Outdoor Professional License
230.80	Qualifications for Proximate Audience License
230.90	Qualifications for Flame Effect License
230.100	Application for License
230.110	Proximate Audience and Flame Effect Licensing Review Committee
230.120	Written Examination for Proximate Audience License and/or Flame Effect License
230.130	Use of Assistants
230.140	License Renewal
230.150	Fees
230.160	Possession of License
230.170	Notification to Office
230.180	Replacement and Duplicate License
230.190	Report of Theft or Loss of Fireworks
230.200	Reporting of Professional, Proximate Audience and Flame Effect Displays
230.210	Report of Injury or Property Damage
230.220	Inspections
230.230	Immediate Suspension
230.240	Administrative Actions
230.250	Appeal of an Administrative Action
230.260	Modifications to NFPA 1126
230.270	Modifications to NFPA 160
230.280	Criminal History Investigation
230.APPENDIX A	Propane Flow Diagram: Standard with No Accumulator
230.APPENDIX B	Propane Flow Diagram: Standard with Accumulator

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AUTHORITY: Implementing and authorized by Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30] and Section 4.1 of the Fireworks Use Act [425 ILCS 35/4.1].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 1485, effective January 23, 2006; emergency expired June 21, 2006; adopted at 31 Ill. Reg. _____, effective _____.

Section 230.10 Scope

This Part implements the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227] and applies to all individuals who distribute display fireworks or conduct pyrotechnic displays, or are responsible for the safety, setup, discharge and supervision of a pyrotechnic display in this State. This Part is intended to supplement the requirements of any federal, State or local laws and regulations governing the distribution or sale of fireworks, including the safety, setup, discharge and supervision of pyrotechnic displays, but shall be construed, wherever possible, to avoid conflicting or duplicative requirements. In the event of a conflict between this Part and the laws and rules enforced by agencies of the federal government, including the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Occupational Safety and Health Administration, the laws and rules enforced by agencies of the federal government shall control. However, provisions of this Part shall not be deemed to be in conflict with federal requirements on the basis that they are more specific than, more stringent than, or impose requirements for which no like requirements are contained in, laws and rules enforced by agencies of the federal government. Further, should there be a conflict between this Part and the laws and rules enforced by the local governmental agency, this Part shall control to the extent that provisions of this Part are more specific than, more stringent than, or impose requirements for which no like requirements are contained in, laws and rules enforced by the local governmental agency.

Section 230.20 Definitions

For purposes of this Part, the term:

"1.3G fireworks" means fireworks that are used for professional outdoor displays and classified as fireworks UN0333, UN0334 or UN0335 by the United States Department of Transportation (USDOT) under 49 CFR 172.101. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0333 (1.1G), UN0334 (1.2G), and UN0335 (1.3G). (See 49 CFR 172.101.)

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"Act" means the Pyrotechnic Distributor and Operator Licensing Act.

"Applicant" means an individual applying for a license under this Part.

"Assistant" means an on-site individual who is at least 18 years of age and who, under the supervision of the lead operator, assists with the safety, setup and discharge of a pyrotechnic display.

"ATF" means the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. [225 ILCS 227/5]

"Consumer fireworks" means fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 CFR Parts 1500 and 1507, and classified as fireworks UN0336 or UN0337 by USDOT under 49 CFR 172.101. "Consumer fireworks" does not include a substance or article exempted under the Fireworks Use Act. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0336 (1.4G) and UN0337 (1.4S). (See 49 CFR 172.101.)

"Display fireworks" means any substance or article defined as a Division 1.3G explosive or special effects fireworks. [225 ILCS 227/5]

"DNR" means the Illinois Department of Natural Resources.

"Facility" means an area being used for the conducting of a pyrotechnic display business, but does not include residential premises except for the portion of any residential premises that is actually used in the conduct of a pyrotechnic display business. [225 ILCS 227/5]

"FBI" means the Federal Bureau of Investigation.

"Flame effect" means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged in accordance with NFPA 160. [225 ILCS 227/5]

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"Flame effect license" means a license issued to a qualified lead pyrotechnic operator for flame effect displays. A license may be limited to a certain type of display, effect or location.

"Illinois display report" means the report filed by the lead operator with the Office providing certain information with respect to the pyrotechnic display.

"ISP" means the Illinois Department of State Police.

"Lead pyrotechnic operator" means the on-site individual, who is at least 21 years of age, with overall responsibility for safety, setup, discharge, and supervision of a pyrotechnic display. [225 ILCS 227/5]

"License" means the license issued by the Office pursuant to the Act and this Part.

"Licensee" means the individual licensed in accordance with the Act and this Part.

"NFPA" means the National Fire Protection Association, a nationally recognized standards-making organization.

"Office" means the Office of the State Fire Marshal. [225 ILCS 227/5]

"Officer" means:

if the applicant is a political subdivision of the State, an appointed or elected official; or

if the business is a sole proprietorship, the owner of the business or any person exercising managerial control; or

if the business is a partnership, any partner who has at least 10% ownership interest or any person exercising managerial control; or

if the business is a corporation, any officer or director of the corporation, any person who has at least 10% ownership interest in the corporation, or any person exercising managerial control.

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"Outdoor professional display" means an outdoor pyrotechnic display that uses 1.3G fireworks and is at least 75' from the audience in accordance with NFPA 1123.

"Outdoor professional license" means the license issued to a qualified lead pyrotechnic operator for 1.3G fireworks.

"Person" means an individual, firm, corporation, association, partnership, company, consortium, joint venture, commercial entity, state, municipality, or political subdivision of a state or any agency, department, or instrumentality of the United States and any officer, agent, or employee of these entities. [225 ILCS 227/5]

"Proscenium curtain" means the curtain covering the opening of the stage that is constructed and mounted in a manner that intercepts hot gases, flames and smoke and that prevents flame from a fire on the stage from becoming visible from the auditorium side.

"Proximate audience display" means a display of special effects fireworks that occurs within a building or structure or that occurs outside before an audience closer than 75' to the pyrotechnic or flame devices.

"Proximate audience license" means a license issued to a qualified lead pyrotechnic operator for proximate audience displays. The license may be limited to a certain type of display, effect or location.

"Pyrotechnic display" or "display" means the detonation, ignition, or deflagration of display fireworks or flame effects to produce a visual or audible effect of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged. [225 ILCS 227/5]

"Pyrotechnic distributor" or "distributor" means any person, company, association, group of persons, or corporation who distributes display fireworks for sale in the State of Illinois or provides them as part of a pyrotechnic display service in the State of Illinois or provides only pyrotechnic services. [225 ILCS 227/5]

"Special effects fireworks" means pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or

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other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such and must be identified as "intended for indoor use". Special effects fireworks are classified as fireworks UN0431 or UN0432 by USDOT under 49 CFR 172.101. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced pyrotechnic article identification numbers: UN0431 (1.4G) and UN0432 (1.4S). (See 49 CFR 172.101.)

"Supervision" means direction and management of the activities of personnel in the safety, setup and display of a pyrotechnic display.

"USDOT" means the United States Department of Transportation.

Section 230.25 Incorporated and Referenced Materials

- a) The following national regulations and standards are incorporated in this Part:
 - 1) National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471:
 - A) NFPA 101, Life Safety Code (2000)
 - B) NFPA 160, Standard for the Use of Flame Effects Before an Audience (2006)
 - C) NFPA 1123, Code for Fireworks Display (2006)
 - D) NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience (2006)
 - 2) Federal Statutes
Federal Explosives Law, 40 USC 841
 - 3) Federal Regulations
 - A) ATF
27 CFR 555, Commerce in Explosives (2006)

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- B) Consumer Product Safety Commission
 - i) 16 CFR 1500, Hazardous Substance and Articles; Administration and Enforcement Regulations
 - ii) 16 CFR 1507, Fireworks Devices
- C) USDOT
 - 49 CFR 172.101, Purpose and Use of Hazardous Materials Table (2005)
- b) All incorporations by reference of NFPA standards and federal regulations refer to the standards and regulations on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) The following Illinois statutes and regulations are referenced in this Part:
 - 1) Statutes
 - A) Fireworks Use Act [425 ILCS 35]
 - B) Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227]
 - C) Illinois Explosive Act [225 ILCS 210]
 - 2) State Regulations
 - Department of Central Management Services
 - Travel (80 Ill. Adm. Code 2800)
 - Department of Natural Resources
 - The Illinois Explosive Act (62 Ill. Adm. Code 200)
 - Department of State Police

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Illinois Uniform Conviction Information Act (20 Ill. Adm. Code 1215)

Section 230.30 General Requirements for Pyrotechnic Displays

- a) All pyrotechnic displays require a permit issued by the appropriate local governmental authority in accordance with the Fireworks Use Act [425 ILCS 35].
- b) All pyrotechnic displays require the services of a licensed pyrotechnic distributor and a licensed lead pyrotechnic operator in accordance with this Part.
- c) A licensed lead pyrotechnic operator shall be present during any pyrotechnic display and shall personally supervise all assistants, including all phases of the pyrotechnic display.
- d) The fire chief of the local jurisdiction or his/her designee must inspect and approve the display site for all pyrotechnic displays to ensure that the site is safe to conduct a display.

Section 230.40 Compliance Standards

- a) All pyrotechnic displays shall be conducted in accordance with the edition of the following copyrighted standards and recommended practices:
 - 1) NFPA 1123;
 - 2) NFPA 1126, as modified by Section 230.260; or
 - 3) NFPA 160, as modified by Section 230.270.
- b) Storage of display fireworks (1.3G and above) shall comply with the storage requirements set forth by ATF at 27 CFR 555 or by DNR pursuant to Article 3 of the Illinois Explosive Act. Should there be a conflict between the requirements established by ATF and DNR, those requirements that are more specific, more stringent, or impose requirements for which no like requirements are contained in the other agency's requirements shall control.

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- c) In addition to the preceding standards, all indoor pyrotechnic displays must meet the requirements of the Fireworks Use Act and shall only be held in one of the following types of buildings:
- 1) *Buildings having an automatic sprinkler system* protecting the seating area and stage [425 ILCS 35/2.1];
 - 2) Buildings having an automatic sprinkler system protecting the stage that is equipped with a proscenium curtain, as required by NFPA 101, that will automatically deploy in the event of a fire. In no event may an effect be downstage of the proscenium curtain, i.e., on the audience side of the curtain; or
 - 3) Stadia and arenas without automatic sprinkler system protection over the floor area used for contest, performance, or entertainment; over the seating areas; or over open-air concourses where, as required by NFPA 101, Section 12.3.5, Exception 4, an approved engineering analysis substantiated the ineffectiveness of the sprinkler protection due to building height and combustible loading.

Section 230.50 Qualifications for Distributor License

- a) Except as provided in this Section, no license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act (in particular Section 35) and paid the required application fee.
- b) The applicant must have a current license from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. The Office may issue the applicant temporary authorization to act until ATF renews the applicant's license. In the event the applicant distributes only flame effect pyrotechnic displays, the applicant must submit an affidavit, signed under penalties of perjury, identifying the full extent of pyrotechnic services the applicant provides, and all materials used. With respect to these pyrotechnic services, the applicant shall acknowledge that he or she does not transport, receive, distribute, possess, store, or acquire for use any material that requires an ATF license.
- c) The applicant must have a current Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes

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only flame effect pyrotechnic displays and/or the applicant never transports materials in quantities that require registration with USDOT, the applicant must submit an affidavit, signed under penalty of perjury. In this affidavit, the applicant shall identify all materials he/she uses in the display services provided, the quantity of each material transported for these displays, and an acknowledgement that the applicant never transports materials in quantities that require registration with USDOT. If the applicant never transports materials in quantities that require registration with USDOT, but takes possession of such materials at the display site, the applicant must maintain a file of all documentation concerning the transportation of those materials and provide copies of the documents to the Office upon request.

- d) At least one officer of a pyrotechnic distributor must be a licensed lead pyrotechnic operator for the type of display services provided.
- e) *An out-of-state person hired for or engaged in a pyrotechnic display must have a pyrotechnic distributor license issued by the Office. [225 ILCS 227/10]*

Section 230.60 Qualifications for Limited Distributor License

- a) Except as provided in this Section, no limited distributor's license shall be granted to an applicant that is not a political subdivision of the State, met the requirements of the Act (in particular Section 35) and paid the required application fee.
- b) Pursuant to Section 845(a)(3) of the Federal Explosives Law, the transportation, shipment, receipt, or importation of explosive materials for delivery to a political subdivision of the State does not require the political subdivision of the State to hold a license issued by ATF.
- c) The applicant must have a current Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays, and/or the applicant never transports materials in quantities that require registration with USDOT, the applicant must submit an affidavit, signed under penalty of perjury. In this affidavit, the applicant shall identify all materials he/she uses in the display services provided, the quantity of each material transported for these displays, and an acknowledgement that the applicant never transports materials in quantities that require registration with USDOT. If the applicant never transports materials in quantities that require registration with USDOT, but takes possession of such

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materials at the display site, the applicant must maintain a file of all documentation concerning the transportation of those materials and provide copies of the documents to the Office upon request.

- d) The applicant must provide, for approval by the Office, *proof of having the requisite knowledge, through training, examination, or continuing education*, of the pyrotechnic materials and pyrotechnic displays it provides. [225 ILCS 227/35(c)(8)]

Section 230.70 Qualifications for Outdoor Professional License

- a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.
- b) The applicant must have a current license or a Letter of Clearance from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, the Office may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.
- c) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or equivalent training, as approved by the Office.

Section 230.80 Qualifications for Proximate Audience License

- a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.
- b) The applicant must have a current license or a Letter of Clearance from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, the Office may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.

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- c) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or equivalent training, as approved by the Office.
- d) An applicant for a proximate audience license must achieve a passing score of 80% on a written examination administered by the Office in accordance with Section 230.120.
- e) The applicant must submit evidence of experience that includes active participation in the safe performance of at least 10 proximate audience displays. The applicant must have performed the duties of a lead operator in at least 2 of these displays (either pursuant to a license from another state or under the supervision of a lead operator).
- f) Acceptable documentation of experience includes:
 - 1) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing authority documenting that there were no injuries or property damage sustained from the display; or
 - 2) A copy of the Illinois Display Report (see Section 230.200).
- g) Due to the special nature of proximate audience displays, the Office may issue either a proximate audience license or a limited proximate audience license that will license the individual to conduct only certain types of displays or effects or limit the show to a certain venue.

Section 230.90 Qualifications for Flame Effect License

- a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.
- b) An applicant for a flame effect license must achieve a passing score of 80% on a written examination administered by the Office in accordance with Section 230.120.
- c) The applicant must submit evidence of experience, which must include active participation as a lead operator or assistant in the safe performance of at least 10

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flame effect displays. The applicant must have performed the duties of a lead operator in at least 2 of these flame effect displays (either pursuant to a license from another state or under the supervision of a lead operator).

- d) Acceptable documentation of experience includes:
 - 1) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing authority documenting that there were no injuries or property damage sustained from the flame effect display; or
 - 2) A copy of the Illinois Display Report (see Section 230.200).
- e) Due to the special nature of a flame effect display, the Office may issue a flame effect license or a limited flame effect license that will license the individual to conduct only certain types of effects or conduct shows limited to a certain venue.

Section 230.100 Application for License

- a) All applications for a pyrotechnic distributor license shall be signed and submitted on forms provided by the Office and shall include the following information:
 - 1) The name and address of the business. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address.
 - 2) The names and personal addresses of all officers of the business, including a copy of each officer's driver's license. This information shall be required from only one officer of a political subdivision of the State.
 - 3) The applicable license fee identified in Section 230.150.
 - 4) A Certificate of Insurance showing proof of not less than *\$1,000,000 in product liability insurance, \$1,000,000 in general liability insurance and proof of Illinois worker's compensation insurance.* [225 ILCS 227/35] The insurance coverage shall provide for 30 days minimum coverage prior to written notice of cancellation to the Office. Insurance coverage shall be an occurrence based policy, or its equivalent, and it shall cover all periods of time when pyrotechnic materials, including flame effect materials, are

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in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed. If a political subdivision of the State is self-insured, the applicant shall submit an affidavit acknowledging its self-insurance.

- 5) A copy of the current license issued by ATF or proof from ATF that a license is in the process of being renewed. In the event the applicant distributes only flame effect pyrotechnic displays, the applicant shall submit a sworn affidavit as set forth in Section 230.50(b). In the event the applicant is a political subdivision of the State, the applicant shall submit an affidavit acknowledging its status.
 - 6) The Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays and the applicant never transports materials in quantities that require registration with USDOT, the applicant shall submit a sworn affidavit as set forth in Section 230.50(c).
 - 7) Proof that the applicant met the requirements of Section 230.50.
 - 8) If providing display services, the name of the officer who is licensed for those types of services.
 - 9) In accordance with Section 230.280 of this Part, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.
- b) The pyrotechnic distributor shall submit to the Office the applications of its employees applying for a lead pyrotechnic operator license. All applications for the license shall be signed by the applicant and submitted on forms provided by the Office and must be accompanied by the following additional information:
- 1) A copy of the applicant's driver's license or other government issued identification that includes the date of birth and photograph.

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- 2) A photograph, approximately 1¼" x 1½", taken within the preceding 2 years. The photograph must show the applicant from a front view with his or her full-face and head and shoulders visible. The Office will reject photographs showing the applicant wearing sunglasses, hats, scarves, or any object that obscures the applicant's identity.
- 3) A copy of a current license or a Letter of Clearance from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. A current license or Letter of Clearance from ATF is required for both the outdoor display and proximate audience licenses. In the event the applicant has only applied for an ATF explosives license or Letter of Clearance, the applicant shall submit an affidavit, signed under penalty of perjury, with a copy of the completed ATF application attached, acknowledging when he/she submitted an application to ATF for processing.
- 4) In the event the applicant participates in only flame effect pyrotechnic displays, the applicant shall submit an affidavit, signed under penalty of perjury, acknowledging that he/she only participates in the safety, setup, discharge, and supervision of flame effect pyrotechnic displays. The affidavit shall acknowledge that, with regard to the services provided, the applicant does not transport, receive, distribute, possess, store, or acquire for use any material that requires an ATF license.
- 5) The applicable license fee identified in Section 230.150.
- 6) Proof that the applicant met the requirements of Section 230.70(c), 230.80(c) or 230.90(b), whichever is applicable to the respective license.
- 7) References from at least 3 individuals, who are not affiliated with the pyrotechnic distributor who employs the applicant, who can verify the experience reported or any training received by the applicant. All references must include the name, address, phone number, and agency or organization represented by the person submitting the reference. These references can be from permitting officials, law enforcement officials who had oversight at a display, fire department personnel who approved and reviewed pyrotechnic displays performed by the applicant in the past, and other individuals who can attest to the applicant's training, experience, and manner in performing displays. In addition, these letters should identify

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the basis for the opinion expressed in the letter, i.e., how does that person know the applicant and what facts support the opinion expressed in the letter.

- 8) In accordance with Section 230.280 of this Part, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.
- c) Upon receipt and review of the application, the Office shall issue the appropriate license or shall notify the applicant of the reason for the denial of the license.
- d) Depending on an applicant's professional qualifications, as evidenced by information and documents submitted with his/her application, and on the nature and extent of an applicant's planned participation in permitted pyrotechnic displays, the Office may, within its sole discretion, issue a temporary license to an individual during the application process. The temporary license shall expire upon receipt of the appropriate license or notification of denial of the license.

Section 230.110 Proximate Audience and Flame Effect Licensing Review Committee

The State Fire Marshal shall appoint a review committee to review the experience and qualifications of an applicant for a proximate audience or flame effect license, and recommend the type of license to be issued.

- a) The committee shall consist of the following 3 members:
 - 1) The State Fire Marshal or his/her designee, as chair;
 - 2) One representative from a fire department that has experience in permitting proximate audience and flame effect displays within its jurisdiction; and
 - 3) One representative from a company that has experience in setting up and firing proximate audience and flame effect displays.

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- b) Members shall serve without salary, but may receive reimbursement for reasonable expenses from the Office from appropriations for such purposes, in accordance with 80 Ill. Adm. Code 2800.
- c) All members shall have one vote.
- d) Members shall serve a term of 2 years.
- e) Upon the expiration of a member's term of office, the State Fire Marshal shall reappoint that member or appoint a successor who is a representative of the same interests, as identified in subsection (a).
- f) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office. In such instances, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests. Upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests.
- g) The committee shall meet each calendar quarter to review applications and at additional times as the committee deems necessary. The committee does not need to meet if there are no applications to review.

Section 230.120 Written Examination for Proximate Audience License and/or Flame Effect License

- a) An applicant for a proximate audience or flame effect license must have completed a written examination administered by the Office and achieved a passing score of at least 80%.
- b) The written examination is designed to demonstrate the applicant's knowledge of the Act, this Part, and NFPA 1126 and/or NFPA 160 standards relating to safe practices for the storage, use, handling, discharge and display of fireworks and flame effects.
- c) The examinations are administered by the Office at times scheduled during each calendar year. Contact the Office to obtain the examination schedule. There is a \$25 fee for taking the examination.

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- d) Persons failing to achieve a passing score of at least 80% are eligible to retake the examination after 30 days.

Section 230.130 Use of Assistants

No person may act as an assistant at any pyrotechnic display or flame effect display who has not reached the age of 18 and met the requirements of Section 35 of the Act.

Section 230.140 License Renewal

- a) A license issued pursuant to this Part is valid for 3 years from the date of issuance.
- b) Outdoor professional, proximate audience and flame effect licensees may renew their license during the 60-day period preceding and 60-day period following the expiration date by submitting a renewal application on forms provided by the Office, together with the required fee. Renewal applications shall be submitted by the distributor by whom the licensee is employed.
- c) Any license that is not renewed within 60 days following its expiration will be cancelled. Except as set forth in subsection (g), any requests after that date to renew or restore will be treated as a new application.
- d) The extended renewal periods under subsections (b) and (g) do not allow a licensee to engage in any conduct or activities for which a license is required during the 60-day period after the license's expiration date.
- e) In addition, a licensee seeking to renew his/her outdoor professional, proximate audience or flame effect license must include with the renewal application evidence that the licensee participated in at least:
 - 1) 2 pyrotechnic displays as a lead operator for an outdoor professional display license;
 - 2) 6 proximate audience displays for a proximate audience license; or
 - 3) 6 flame effect displays for a flame effect license.

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- f) Licensees must provide evidence of satisfactory completion of at least 6 hours of continuing education in their respective area of licensure to ensure continued qualification of the licensee. Continuing education may be conducted by a federal or state agency, by an independent organization that has experience in the subject matter, or by the distributor.
- g) *Renewal and reinstatement fees shall be waived for persons who did not renew while on active duty in the military and who file for renewal or restoration within one year after discharge from the service.* [225 ILCS 227/50(b)] These licensees must satisfy all other requirements of this Section in order to renew a license. Proof of service discharge date will be required to receive a waiver of fees.

Section 230.150 Fees

The following license fees shall be paid to the Office for administration of the Act and are non-refundable:

Pyrotechnic Distributor License and each renewal	\$500
Limited Pyrotechnic Distributor License and each renewal (only available for political subdivisions of the State)	\$50
Outdoor Professional License and each renewal	\$100
Proximate Audience License, Limited Proximate Audience License and each renewal	\$300
Flame Effect License, Limited Flame Effect License and each renewal	\$300
Replacement license (lost, stolen, or destroyed) or duplicate license (worn, damaged, or address change)	\$25

Section 230.160 Possession of License

The lead operator must be in possession of, and be able to produce, his/her license upon request at all times during delivery, setup, and performance of the display.

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Section 230.170 Notification to Office

- a) Written communication with the Office, as identified in this Part shall be mailed to:
- Office of the State Fire Marshal
Pyrotechnic Licensing
1035 Stevenson Drive
Springfield, Illinois 62703-4259
- b) The licensee shall notify the Office in writing within 5 business days after the following events:
- 1) Discovery that his/her license has been lost, stolen or destroyed.
 - 2) ATF license has expired or ATF has terminated, suspended or revoked a license or Letter of Clearance. A copy of any written notice of termination, suspension or revocation shall be sent to the Office.
 - 3) DNR explosives license has expired or DNR has terminated, suspended or revoked the license. A copy of any written notice of termination, suspension or revocation shall be sent to the Office.
 - 4) USDOT has changed the licensee's Identification Number. Proof of the licensee's new Identification Number shall be sent to the Office.
 - 5) USDOT has changed the licensee's Hazardous Materials Registration Number. Proof of the licensee's new registration number shall be sent to the Office.
 - 6) The licensee's insurance company or the licensee has changed any of its insurance coverage. A new Certificate of Insurance showing proof of not less than *\$1,000,000 in product liability insurance, \$1,000,000 in general liability insurance and proof of Illinois worker's compensation insurance* shall be sent to the Office. [225 ILCS 227/35] The insurance coverage shall provide for 30 days minimum coverage prior to written notice of cancellation to the Office and shall comply with Section 230.100(a)(4).

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- 7) A distributor licensee has changed its officers. A sworn statement listing all of the distributor's current officers' names and personal addresses, and copies of each officer's driver's license, shall be sent to the Office.
- 8) A distributor licensee no longer employs a lead operator. The distributor licensee shall provide the Office with the full name and last known address of the lead operator.
- c) The licensee shall notify the Office in writing within 10 days after a change in his/her address or name. Proof that the change in address or name had been done in accordance with the law shall be sent to the Office.

Section 230.180 Replacement and Duplicate License

- a) At any time a license has been lost, stolen or destroyed, the licensee shall notify the Office as required in Section 230.170. Upon receipt of the written notification and the replacement license fee, the Office will issue a replacement license.
- b) At any time a license becomes worn or damaged to the extent that it is illegible in any respect, or the licensee changes his/her address or name, the license must be returned to the Office. Upon receipt of the original license, proof of any changes necessary to maintain correct information as required in Section 230.170, and the duplicate license fee, the Office will issue a duplicate license.

Section 230.190 Report of Theft or Loss of Fireworks

- a) A licensee shall report the theft or loss of fireworks to local law enforcement, DNR, and ATF immediately and to the Office, by telephone, within 8 hours after discovery. The Office may be reached at 217-785-0969 during normal working hours and at the Illinois Emergency Management Agency dispatch number, 800-782-7860, outside normal working hours.
- b) Within 24 hours after discovery of the loss or theft, the Office must be provided written notice that includes a complete description of the fireworks, including the manufacturer, brand name, any manufacturer marking and quantity, and a description of the circumstances surrounding the theft or loss. The written notice shall also identify local law enforcement agencies contacted by the licensee and shall be executed under penalty of perjury.

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Section 230.200 Reporting of Professional, Proximate Audience and Flame Effect Displays

- a) Each licensee shall file an Illinois Display Report with the Office within 30 days following any pyrotechnic display in which he/she acted as the lead operator. The report shall be filed on forms provided by the Office and shall include the names and signatures of all lead operators and assistants.
- b) The licensee shall maintain a copy of the Illinois Display Report and also record and maintain with the report the manufacturer or type, quantity and description of the fireworks.
- c) Licensee shall keep the record for a minimum of 4 years from the date of the display.
- d) The Office may require other information from the licensee relating to displays.

Section 230.210 Report of Injury or Property Damage

- a) The licensee shall notify the Office within 8 hours after the following incident:
 - 1) A fire;
 - 2) An injury to any person resulting from the display; or
 - 3) Damage to property in excess of \$500, in the aggregate, resulting from the display.
- b) The Office may be reached at 217-785-0969 during normal working hours and at the Illinois Emergency Management Agency dispatch number, 800-782-7860, outside normal working hours.
- c) The licensee shall submit a written report to the Office within 3 days following a fireworks display conducted by the licensee if any of the following occurred:
 - 1) Any of the incidents identified in subsection (a); or
 - 2) Whenever an unsafe or defective pyrotechnic product or equipment was used or observed.

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- d) The Office may require other information from the licensee relating to fireworks displays.

Section 230.220 Inspections

- a) A licensee shall make all records required pursuant to Sections 230.190, 230.200 and 230.210 available to authorized representatives of the Office or the local governmental agency having jurisdiction.
- b) A licensee shall permit the display site and licensee's facility to be inspected at all reasonable times by representatives of the Office or the local governmental agency.

Section 230.230 Immediate Suspension

- a) The Office shall issue an order immediately suspending the license whenever the Office finds, based upon reasonable belief from on-site observation, record inspection by Office personnel, information received from law enforcement personnel or information received from the public, that a licensee:
 - 1) Permitted a person to act as an assistant who did not meet the requirements of Section 230.130; or
 - 2) Violated the Act, this Part or compliance standard that may cause death or serious injury.
- b) The Office shall serve its order of immediate suspension of a license under this Section by personal service. The order shall also be sent by certified mail to the licensee's last known address.
- c) The Office shall serve with the order of immediate suspension a notice containing the information set forth in subsection (a).

Section 230.240 Administrative Actions

Failure to comply with the Act and this Part may subject a licensee to administrative action, including, but not limited to, revocation, suspension, probation, or refusal to issue or renew a license.

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Section 230.250 Appeal of an Administrative Action

- a) Any person aggrieved by a decision, order or ruling of the Office may, as a matter of right, appeal that action.
- b) All appeal requests shall:
 - 1) Be in writing;
 - 2) Contain an address and telephone number where the appellant may be notified of the time and place of the hearing; and
 - 3) Set forth the reasons why the action of the Office should be reversed or modified.
- c) Appeals from a decision, order or ruling of the State Fire Marshal or his/her designees shall be instituted by filing a written request for a hearing no later than 10 days following receipt of the notice of the action. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.
- d) The appeal request shall be mailed to:

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703-4259

Section 230.260 Modifications to NFPA 1126

NFPA 1126, Use of Pyrotechnics Before a Proximate Audience, is modified to include the following additional requirements:

- a) Definitions for use in this Section:

"Loading" refers to preparing or mixing for use pyrotechnic material.

"Mixing room" means the room within the facility used for mixing or loading of pyrotechnic materials. The room shall be secure and shall be proximate to the display area.

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- b) The following are additions to the requirements of Chapter 5 (Storage of Pyrotechnic Materials and Devices):
- 1) At any time pyrotechnic materials are stored within the facility, they must be stored in the on-site storage magazine that must be, at minimum, a Type 3 Storage "Day Box" that complies with the requirements set forth by ATF and/or DNR (62 Ill. Adm. Code 200.700) for Type 3 magazines. The magazine shall be located in the mixing room.
 - 2) All pyrotechnic material in the lead operator's possession, when not in use or being loaded, must be stored in the magazine.
 - 3) The mixing room shall be placarded with a "1.4G" USDOT standard placard and a "No Smoking" placard that is 8½" x 11" with 1" lettering.
 - 4) At least one approved 2½ gallon pressurized water fire extinguisher shall be located within 10' of the mixing room and the door shall be locked when not attended. The lead operator shall have a key to the room.
 - 5) The mixing room shall not have carpeting on the floor.
- c) In addition to the requirements of Chapter 8.1 (General Fire Protection), at least 4 pressurized water or pump extinguishers shall be readily available for use (with the manufacturer's instructions).
- d) The following are additions to the requirements of Chapter 8.2 (Firing Prerequisites):
- 1) At no time shall the path of a rocket or grid rocket pass directly over an audience in its travel.
 - 2) All temporary suspended truss components, whether supported from the ground or from a building's ceiling, shall have either a steel aircraft cable 3/8" galvanized wire rope safety backup protecting standard polyester spansets (polyester roundslings) or use GACflex™ wire rope soft sling to attach truss to the chain motor.
- e) Section 8.3.6 of Chapter 8.3 (Firing Safeguards) is deleted in its entirety and replaced with the following:

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- 1) Warning signal lights must be used to indicate the impending firing of a concussion special effect. The warning signal lights shall be located at least 25' from the concussion effect but within a distance to warn working personnel and other individuals of the impending concussion effect firing.
 - 2) Warning signs shall be posted backstage and onstage by the warning light to indicate the purpose of the warning signal lights.
- f) In addition to the requirements of Chapter 8.3 (Firing Safeguards), prior to commencement of the live entertainment, an announcement to the patrons of the licensed premises must be made to inform the patrons of the locations of exits and fire escapes at the licensed premises.
- g) Section 8.5.7 of Chapter 8.5 (Safety Precautions) is deleted in its entirety and replaced with the following:

The lead operator and assistants shall wear safety glasses and clothing made of cotton during the preparation and loading of the pyrotechnic devices.

Section 230.270 Modifications to NFPA 160

NFPA 160, Flame Effects Before an Audience, is modified to include the following additional requirements:

- a) Definitions for use in this Section:

"Armed" means confirmation of ignition source.

"Arming" means the key is in the on position, sending a signal to the FSU to light pilot for flame verification.

"Enable" means the system has power, safety valve open, accumulator charging/propane lines charging.

"ESSV" means Electronic Solenoid Safety Valve.

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"FSU" means the Flame Safety Unit, a UL-Approved device to confirm an ignition source.

"Fuel tank" means the tank containing propane.

"Torch" means a gas flame effect no higher than 8" continuously burning, Group I effect.

- b) The following are additions to the requirements of Chapter 7 (Use of Flame Effects):
- 1) There shall be a horizontal clearance of at least 10' between the effect and any overhead obstructions.
 - 2) There shall be a horizontal clearance of at least 10' from any spotlight operator.
 - 3) All temporary suspended truss components, whether supported from the ground or from a building's ceiling, shall have either a steel aircraft cable 3/8" galvanized wire rope safety backup protecting standard polyester spansets (polyester roundslings) or use GACflex™ wire rope soft sling to attach truss to the chain motor.
- c) The following Sections of Chapter 9 (System Components, Flame Effects Control Systems, and Design) are deleted in their entirety and replaced as follows:
- 9.1.1. All flame effect control systems shall be designed and installed to prevent accidental firing and unintentional release of fuel. All firing systems must have at least one key safety interlock and that key should be with the Flame Operator when the unit is not in use.
 - 9.3.2.2. The amount of fuels that are supplied to the flame effects shall be limited to that amount necessary for operation.
 - 9.3.3. All flame effect control systems shall be manually and automatically enabled according to a prescribed sequence of operations outlined in the plan, which prepares the flame effect for subsequent arming and firing.

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- 9.3.4. The arming of the effect shall be manually and automatically monitored and confirmed until the effect is fired.
- d) The following are additions to the requirements of Chapter 9 (System Components, Flame Effects Control Systems, and Design):
- 1) The maximum fuel tank size allowed inside a building or facility is 20 lbs.
 - 2) Hoses shall be located and protected to minimize exposure to physical damage or exposure to abnormally high temperatures, such as temperatures that might result from exposure to convection or radiation from heating equipment. Hoses shall be free from cuts or defects. Identified cuts or defects shall not be repaired. Defective or cut hoses shall be replaced. Hose that is exposed to moisture shall be constructed of noncorrosive materials or shall be protected against external corrosion.
 - 3) The hose, at no time, shall extend through the audience or seating area.
 - 4) The hose shall not extend from one room to another or pass through any partitions, walls, ceilings, or floors.
 - 5) If more than one such cylinder is located in a room, the cylinders shall be separated by at least 20'.
 - 6) All system components, including but not limited to hoses and connectors, shall be listed for their intended use and compatible with the products they contain.
 - 7) Any accumulators or hose shall be purged of all fuel prior to removal from its location.
 - 8) Appendices A and B of this Part are added to provide for the minimum layout of propane flame effect devices.
 - 9) All flame effect displays allowed before an audience are limited to Group V or Group VI control systems.
- e) The following are additions to the requirements of Chapter 11 (Fire Protection Provisions):

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- 1) At least 4 pressurized water or pump extinguishers shall be readily available for use (with the manufacturer's instructions).
- 2) Prior to commencement of the live entertainment, an announcement to the patrons of the licensed premises must be made to inform the patrons of the locations of exits and fire escapes at the licensed premises.

Section 230.280 Criminal History Investigation

- a) The applicant shall submit with his or her application a fingerprint card, using one of the methods identified in subsections (b) or (c) below *to enable ISP to conduct a criminal history check on the applicant.* [225 ILCS 227/40]
- b) An applicant may submit his/her fingerprints electronically to ISP through a certified Livescan vendor. The applicant must notify the Livescan vendor that the Purpose Code for the criminal history check is PDA, and the ORI number for the Office is IL920690Z. When the Livescan vendor transmits the applicant's fingerprints to ISP, the Livescan vendor will collect the fee specified by ISP for processing fingerprint cards through the ISP and FBI criminal history record files and any additional processing fee charged by the Livescan vendor.
- c) In the event the applicant cannot submit his/her fingerprints through electronic means, he/she must obtain a Fee Applicant Card from ISP. An applicant may telephone the ISP Supply Room, 815-740-5216, to request a Fee Applicant Card. Because the Fee Applicant Card has a unique Transaction Control Number assigned to it, which ISP uses to process the criminal history check, fingerprint cards from other jurisdictions will not be accepted. Once completed, the applicant should mail the Fee Applicant Card directly to ISP at the address shown on the card, with the required processing fee described in subsection (d) below.
- d) An applicant who submits his/her fingerprints directly to ISP on a Fee Applicant Card shall pay the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files. The ISP required processing fee may be made payable to the State Police Services Fund and shall be remitted to ISP for deposit into that Fund (see 225 ILCS 227/40).

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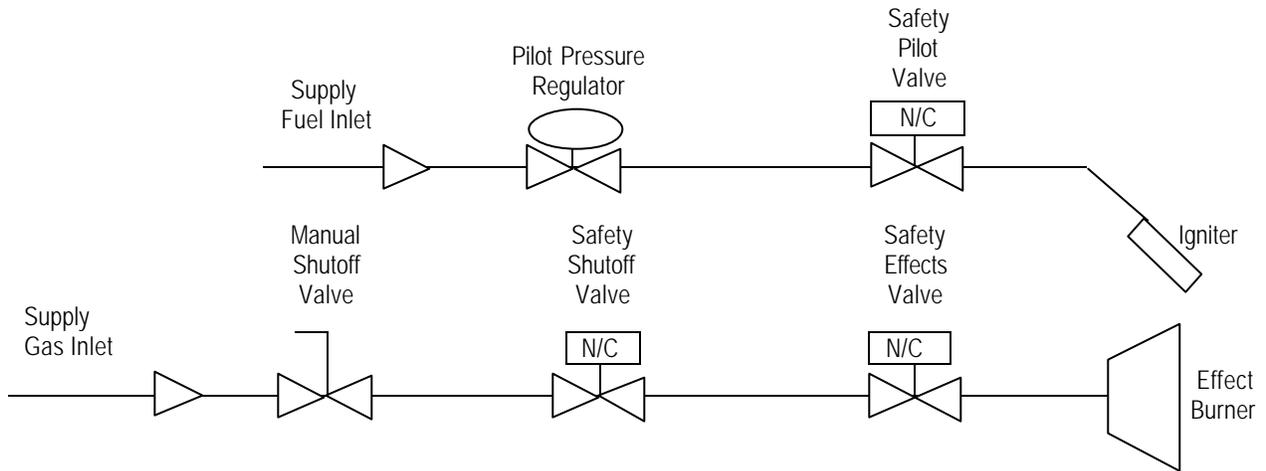
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- e) If an applicant is a business entity, all officers of the applicant shall submit a fingerprint card for a criminal history investigation in the form and manner identified in this Section.

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Section 230.APPENDIX A Propane Flow Diagram: Standard with No Accumulator



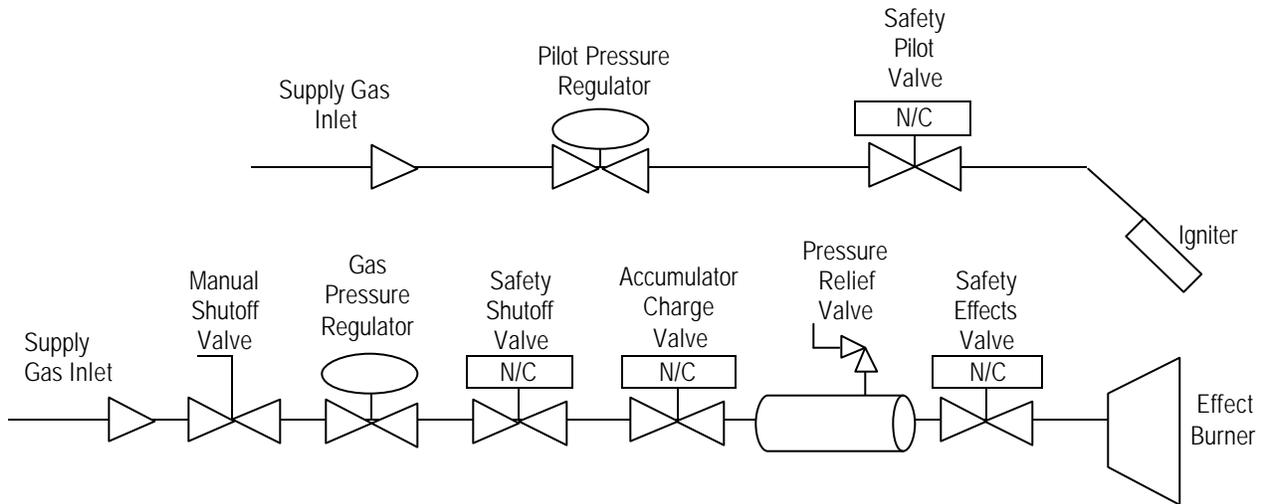
Propane nuts to be of the self sealing type or a manual shutoff valve to prevent fuel backflow

Pilot Flame Sensing Element

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Section 230.APPENDIX B Propane Flow Diagram: Standard with Accumulator



Propane nuts to be of the self sealing type or a manual shutoff valve to prevent fuel backflow

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- 1) Heading of the Part: Pyrotechnic And Consumer Display Permitting Rules
- 2) Code Citation: 41 Ill. Adm. Code 235
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
235.10	New
235.20	New
235.25	New
235.30	New
235.40	New
235.50	New
235.60	New
235.70	New
235.80	New
235.90	New
235.100	New
235.110	New
235.120	New
235.130	New
235.140	New
235.150	New
235.160	New
235.170	New
235.180	New
- 4) Statutory Authority: Authorized by and implementing Section 4.1 of the Fireworks Use Act [425 ILCS 35/4.1] and Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30]
- 5) A Complete Description of the Subjects and Issues Involved: The issues involved are the proper licensing of professional and consumer operators to conduct pyrotechnic displays and flame effect display in an outdoor setting in a safe manner so there is no danger to the audience attending the event. The subjects involved are the use of explosives and flammable gases in pyrotechnic displays of a theatrical nature in an outdoor setting.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: The sources of underlying data used to compose this rulemaking consists of statutes and rules currently in effect in Illinois along with the text of the codes adopted by

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reference in these rules. Copies of those codes are available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL 62703.

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed rules have impact on local government to the extent that local government units conduct or permit pyrotechnic displays.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Misty Matykiewicz
Director of the Fire Prevention Division
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/558-0639
Facsimile: 217/782-1062
Email: misty.matykiewicz@ILLINOIS.GOV
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Those small businesses that conduct or sponsor pyrotechnic displays.
 - B) Reporting, bookkeeping or other procedures required for compliance: Display reports are required from any licensed operator and distributor that conducts a pyrotechnic display

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- C) Types of professional skills necessary for compliance: Training and licensing by the Illinois Department of Natural Resources and the Federal Bureau of Alcohol Tobacco and Firearms.

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: STATE FIRE MARSHALPART 235
PYROTECHNIC AND CONSUMER DISPLAY PERMITTING RULES

Section	
235.10	Scope
235.20	Definitions
235.25	Incorporated and Referenced Materials
235.30	General Requirements for All Pyrotechnic Displays and Consumer Fireworks Displays
235.40	Pyrotechnic Display Permit Requirements
235.50	1.3G Fireworks Display Compliance Standards
235.60	Indoor Special Effects Fireworks and Flame Effect Display Compliance Standards
235.70	Possession of License by Lead Operator
235.80	Consumer Operator Training
235.90	Consumer Fireworks Display Permit Requirements
235.100	Consumer Fireworks Display Compliance Standards
235.110	Consumer Distributors and Retailers
235.120	Forms
235.130	List of Approved Consumer Fireworks
235.140	Consumer Fireworks Review Committee
235.150	Record of Permits Issued
235.160	Report of Fire, Injury, or Property Damage
235.170	Report of Theft or Loss of Fireworks
235.180	Local Authority

AUTHORITY: Implementing and authorized by Section 4.1 of the Fireworks Use Act [425 ILCS 35/4.1] and Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 1515, effective January 23, 2006; emergency expired June 21, 2006; adopted at 31 Ill. Reg. _____, effective _____.

Section 235.10 Scope

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This Part implements the pyrotechnic display and consumer fireworks display permitting requirements and applies to all pyrotechnic displays and consumer fireworks displays in this State, including displays using display fireworks, 1.3G fireworks, special effects fireworks, flame effects, and consumer fireworks. This Part is intended to supplement the requirements of any federal, State or local laws and regulations governing the safety, setup, discharge and supervision of pyrotechnic displays and consumer fireworks displays, but shall be construed, wherever possible, to avoid conflicting or duplicative requirements. In the event of a conflict between this Part and the laws and rules enforced by agencies of the federal government, including the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Occupational Safety and Health Administration, the laws and rules enforced by agencies of the federal government shall control. However, provisions of this Part shall not be deemed to be in conflict with federal requirements on the basis that they are more specific than, more stringent than or impose requirements for which no like requirements are contained in, laws and rules enforced by the federal government. Further, should there be a conflict between this Part and the laws and rules enforced by the local governmental agency, this Part shall control to the extent that provisions of this Part are more specific than, or more stringent than, or impose requirements for which no like requirements are contained in, laws and rules enforced by local governments.

Section 235.20 Definitions

For purposes of this Part, the term:

"1.3G fireworks" means those fireworks that are used for professional outdoor displays and classified as fireworks UN0333, UN0334, or UN0335 by the United States Department of Transportation (USDOT) under 49 CFR 172.101. [425 ILCS 35/1] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0333 (1.1G), UN0334 (1.2G), and UN0335 (1.3G). (See 49 CFR 172.101.)

"Act" means the Fireworks Use Act.

"Applicant" means the individual who is applying for a pyrotechnic or consumer display permit.

"Assistant" means an on-site individual who is at least 18 years of age and who, under the supervision of the lead operator, assists with the safety, setup and discharge of a pyrotechnic display.

"ATF" means the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

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"Certificate of training" means the consumer operator has successfully completed training on the safe handling of consumer fireworks from a training program approved by the Office of the State Fire Marshal.

"Consumer distributor" means any person who distributes, offers for sale, sells, or exchanges for consideration consumer fireworks in Illinois to another distributor or directly to any retailer or person for resale. [425 ILCS 35/1]

"Consumer fireworks" means those fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 CFR 1500 and 1507, and classified as fireworks UN0336 or UN0337 by USDOT under 49 CFR 172.101. "Consumer fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; hand-held wire sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing .25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that contain less than .20 grains of explosive mixture; the sale and use of which shall be permitted at all times. [425 ILCS 35/1] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0336 (1.4G) and UN0337 (1.4S). (See 49 CFR 172.101.)

"Consumer fireworks display" or "consumer display" means the detonation, ignition, or deflagration of consumer fireworks to produce a visual or audible effect. [425 ILCS 35/1]

"Consumer operator" means an adult individual who is responsible for the safety, setup, and discharge of the consumer fireworks display and who has completed the training required in Section 2.2 of the Act. [425 ILCS 35/1]

"Consumer retailer" means any person who offers for sale, sells, or exchanges for consideration consumer fireworks in Illinois directly to any person with a consumer display permit. [425 ILCS 35/1]

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"Display fireworks" means any substance or article defined as a Division 1.3G explosive or special effects fireworks or as further defined in the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"DNR" means the Illinois Department of Natural Resources.

"Fire chief of the local jurisdiction" means the chief of the fire department providing fire protection coverage to the area of display, or his/her designee when expressly provided in the Act.

"Flame effect" means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged, in accordance with NFPA 160 guidelines, and as may be further defined in the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"Lead pyrotechnic operator" means an individual who is responsible for the safety, setup, and discharge of the pyrotechnic display, who is responsible for the supervision of personnel at the pyrotechnic display, and who is licensed pursuant to the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"License" means the license issued by the Office pursuant to the Pyrotechnic Distributor and Operating Licensing Rules.

"Local governmental authority" means the appropriate city councils in cities, the president and board of trustees in villages and incorporated towns, and outside the corporate limits of cities, villages and incorporated towns, the county board.

"NFPA" means the National Fire Protection Association, a nationally recognized standards-making organization.

"Office" means the Office of the State Fire Marshal.

"Officer" means:

if the applicant is a political subdivision of the State, an appointed or elected official; or

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if the business is a sole proprietorship, the owner of the business or any person exercising managerial control; or

if the business is a partnership, any partner who has at least 10% ownership interest or any person exercising managerial control; or

if the business is a corporation, any officer or director of the corporation, any person who has at least 10% ownership interest in the corporation, or any person exercising managerial control.

"Person" as an individual, firm, corporation, association, partnership, company, consortium, joint venture, commercial entity, state, municipality, or political subdivision of a state, or any agency, department, or instrumentality of the United States and any officer, agent, or employee of these entities. [225 ILCS 227/5]

"Proscenium curtain" means the curtain covering the opening of the stage that is constructed and mounted in a manner that intercepts hot gases, flames and smoke and that prevents flame from a fire on the stage from becoming visible from the auditorium side.

"Pyrotechnic display" means the detonation, ignition, or deflagration of display fireworks or flame effects to produce visual or audible effects of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged, and as may be further defined in the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"Pyrotechnic distributor" means any person, company, association, group of persons, or corporation who distributes display fireworks for sale in the State of Illinois or provides them as part of a pyrotechnic display service in the State of Illinois or provides only pyrotechnic services. [225 ILCS 227/5]

"Special effects fireworks" means pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such and must be identified as "intended for indoor use". Special effects fireworks are classified as fireworks UN0431 or UN0432 by the USDOT under 49 CFR 172.101. [425 ILCS 35/1] USDOT assigns the following division

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numbers to the above-referenced pyrotechnic article identification numbers: UN0431 (1.4G) and UN0432 (1.4S). (See 49 CFR 172.101.)

"USDOT" means the United States Department of Transportation.

Section 235.25 Incorporated and Referenced Materials

- a) The following national regulations and standards are incorporated in this Part:
- 1) National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471:
 - A) NFPA 101, Section 12.3.5, Exception 4, Life Safety Code (2000)
 - B) NFPA 160, Standard for the Use of Flame Effects Before an Audience (2006)
 - C) NFPA 1123, Code for Fireworks Display (2006)
 - D) NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience (2006)
 - 2) Federal Regulations
 - A) ATF
27 CFR 555, Commerce in Explosives (2006)
 - B) Consumer Product Safety Commission
 - i) 16 CFR 1500, Hazardous Substance and Articles; Administration and Enforcement Regulations
 - ii) 16 CFR 1507, Fireworks Devices
 - C) USDOT
49 CFR 172.101, Purpose and Use of Hazardous Materials Table (2005)

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- b) All incorporations by reference of NFPA standards and federal regulations refer to the standards and regulations on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) The following Illinois statutes and regulations are referenced in this Part:
 - 1) Statutes
 - A) Fireworks Use Act [425 ILCS 35]
 - B) Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227]
 - C) Illinois Explosive Act [225 ILCS 210]
 - 2) State Regulations
 - A) Office of the State Fire Marshal
Pyrotechnic Distributor and Operating Licensing Rules (41 Ill. Adm. Code 230)
 - B) Department of Natural Resources
The Illinois Explosives Act (62 Ill. Adm. Code 200)
 - C) Department of Central Management Services
Travel (80 Ill. Adm. Code 2800)

Section 235.30 General Requirements for All Pyrotechnic Displays and Consumer Fireworks Displays

- a) All pyrotechnic displays and consumer fireworks displays require a permit issued by the appropriate local governmental authority in accordance with the Act and this Part.
- b) All pyrotechnic displays require the services of a licensed pyrotechnic distributor and a licensed lead pyrotechnic operator in accordance with this Part.

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- c) A licensed lead pyrotechnic operator shall be present during any pyrotechnic display and shall personally supervise all assistants, including all phases of the pyrotechnic display.
- d) All consumer fireworks displays must be personally supervised by a consumer operator.
- e) The fire chief of the local jurisdiction must inspect and approve the display site for all pyrotechnic displays and consumer fireworks displays to ensure that the site is safe to conduct a display.

Section 235.40 Pyrotechnic Display Permit Requirements

- a) The local governmental authority may issue a pyrotechnic display permit to any adult applicant who meets the following minimum requirements:
 - 1) **Proof of License.** The issuing local governmental authority must verify that the pyrotechnic display services are provided by a licensed pyrotechnic distributor and that the individual responsible for the setup and firing of the display is a licensed lead pyrotechnic operator.
 - 2) **Proof of Insurance.** The local governmental authority issuing the permit shall require *proof of liability insurance in a sum not less than \$1,000,000* [425 ILCS 35/2.1]. The insurance shall be carried with an insurer authorized to do business in Illinois and shall insure the applicant against liabilities, judgments, costs, damages, and expenses that may accrue against, be charged to, or be recovered from the applicant on the reason of damage to property or injury to or death of any person arising from the pyrotechnic display or flame effect display. The insurance coverage shall be an occurrence based policy and it shall cover all periods of time when pyrotechnic materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed.
 - 3) **Fire Chief Approval.** The fire chief of the local jurisdiction must have inspected the site and determined that the display can be performed in full compliance with Sections 235.50 and 235.60 *and that the display shall not*

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be hazardous to property or endanger any person or persons. [425 ILCS 35/2.1]

- b) Time Frame to Apply. The applicant must submit a written application for a permit *at least 15 days in advance of the date of the pyrotechnic display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur.* [425 ILCS 35/2.1]
- c) No Permit Required. *No permit shall be required for supervised public displays by State or County Fair Associations.* [425 ILCS 35/2.1]
- d) Age of Assistants. The issuing local governmental authority must verify that all assistants will be at least 18 years of age.
- e) Identification and Signatures Required on the Permit. Each pyrotechnic display permit must identify the lead pyrotechnic operator and must contain the signature of the issuing officer for the local governmental authority and the fire chief.
- f) *After a permit has been granted, sales, possession, use, and distribution of display fireworks for the display shall be lawful for that purpose only. No permit shall be transferable.* [425 ILCS 35/2.1]

Section 235.50 1.3G Fireworks Display Compliance Standards

All 1.3G fireworks displays and storage shall be conducted in accordance with NFPA 1123. Storage of display fireworks (1.3G and above) shall comply with the storage requirements set forth by ATF at 27 CFR 555 or by DNR pursuant to Article 3 of the Illinois Explosive Act. Should there be a conflict between the requirements established by ATF and DNR, those requirements that are more specific, more stringent, or impose requirements for which no like requirements are contained in the other agency's requirements shall control.

Section 235.60 Indoor Special Effects Fireworks and Flame Effect Display Compliance Standards

- a) All indoor special effects and/or flame effect displays and storage shall be conducted in accordance with:
 - 1) NFPA 1126, as modified by 41 Ill. Adm. Code 230.260; and/or

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- 2) NFPA 160, as modified by 41 Ill. Adm. Code 230.270.
- b) The building in which the display will occur must meet one of the following requirements:
- 1) The building must be protected throughout, including both the seating area and stage, by an automatic sprinkler system; or
 - 2) The stage must be protected by an automatic sprinkler system and have a proscenium curtain, as required by NFPA 101, that will automatically deploy in the event of a fire. No special effects fireworks device and/or flame effect device may be set up on the stage forward of the curtain, i.e., on the audience side of the curtain; or
 - 3) In stadia and arenas without automatic sprinkler system protection over the floor area used for contest, performance, or entertainment; over the seating areas; or over open-air concourses where, as required by NFPA 101, Section 12.3.5, Exception 4, an approved engineering analysis substantiated the ineffectiveness of the sprinkler protection due to building height and combustible loading. In the event a display will occur in a stadium or arena that does not have an automatic sprinkler system protecting the floor area used for contest, performance or entertainment, the seating areas or the open-air concourses, the applicant shall submit, to the local governmental authority and to the fire chief of the local jurisdiction or his/her designee, a written engineering analysis prepared by a licensed professional engineer and the written permission of the building owner.
- c) At any time pyrotechnic materials are on-site, they must be stored in the on-site storage magazine that must be, at minimum, a Type 3 Storage "Day Box" that complies with ATF and DNR (62 Ill. Adm. Code 200.700) requirements for Type 3 magazines.
- d) Each local governmental authority that intends to approve permits for indoor special effects displays or indoor flame effect displays must have at least one inspector who is knowledgeable about NFPA 160 and 1126 and who has received training from the Office in the safe setup of special fireworks and/or flame effect devices and the inspection of those displays.

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- e) At least one inspector from the local jurisdiction must be present during the actual display in a building that meets the requirements of subsection (b)(1). A minimum of one inspector and one member of the local fire service must be present during the actual display in a building that meets the requirements of subsections (b)(2) and (b)(3). During the event, the inspector shall be in the immediate area of the lead pyrotechnic operator and the member of the local fire service shall be on the audience side of the proscenium curtain. In the event the show is of a repetitive nature and will be performed more than 3 times, continued stand-by of the inspector and the member of the local fire service after the third performance is at the fire chief's discretion. In the event the performance of the display is modified in a manner that affects the location or timing of the effects or the materials and/or products being used, then the inspector must be present during the initial 3 performances of the modified display.
- f) Each inspector or member of the local fire service assigned in subsection (e) must have working knowledge of the supplemental fixed or portable fire fighting equipment located at the display area and have a radio for direct communication in an emergency. They shall also be knowledgeable about crowd management and how to evacuate the building.

Section 235.70 Possession of License by Lead Pyrotechnic Operator

The lead pyrotechnic operator must be in possession of, and be able to produce, his/her license (see 41 Ill. Adm. Code 230) upon request at all times during the delivery, setup, and performance of the display.

Section 235.80 Consumer Operator Training

- a) The Office shall develop consumer fireworks training materials and related documents designed to instruct a person about the standards relating to safe practices for the storage, use, handling, discharge and display of consumer fireworks.
- b) The Office shall offer training classes periodically during the year, depending on demand, to individuals who a local governmental authority designates its Consumer Fireworks Trainer. The Office has the authority to charge a reasonable fee for this training and the related materials and documents. Upon completion of the class, the Consumer Fireworks Trainer will receive a certificate, valid for two years, that permits him/her to conduct consumer fireworks training classes in

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his/her jurisdiction. The Consumer Fireworks Trainer will also receive training materials and related documents from the Office to use when training consumer operators.

- c) Local governmental authorities may only offer consumer fireworks training classes if their Consumer Fireworks Trainers have valid training certificates from the Office.
- d) All consumer operators must successfully complete a consumer fireworks training class approved by the Office. The local governmental authority from which a consumer operator seeks a Consumer Operator Display Permit shall offer this class. The local governmental authority may charge a fee for such a class, not to exceed the reasonable costs of providing the class. Upon completion of the class, the consumer operator will receive a certificate of completion that is valid for one year.

Section 235.90 Consumer Fireworks Display Permit Requirements

- a) The local governmental authority may issue a consumer fireworks display permit to any competent adult applicant who meets the following minimum requirements:
 - 1) Certificate of Training. The applicant must provide the issuing local governmental authority his/her certificate of training as evidence of successful completion of a consumer fireworks training class approved by the Office. If an applicant holds a valid Lead Pyrotechnic Operator License for Outdoor Pyrotechnic Displays, he/she may provide a copy of his/her license to the local governmental authority as an alternative certificate of training.
 - 2) Fire Chief Approval. The fire chief of the local jurisdiction must have inspected the site and determined that the display can be performed in full compliance with Section 235.100.
- b) Time Frame to Apply. The applicant must submit a written application for a permit *at least 15 days in advance of the date of the display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur.* [425 ILCS 35/3.1]

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- c) *After a permit has been granted, sales, possession, use, and distribution of consumer fireworks for display shall be lawful for that purpose only. No permit shall be transferable to another individual. [425 ILCS 35/2.2]*
- d) Signatures Required on the Permit. Each consumer display permit must contain the signature of the issuing officer for the local governmental authority and the fire chief.
- e) Assistants. If a consumer operator uses assistants at the display site, each assistant shall have successfully completed a consumer fireworks training class approved by the Office and must provide proof of his/her valid certificate of training to the local governmental authority prior to issuance of the permit.

Section 235.100 Consumer Fireworks Display Compliance Standards

All outdoor consumer displays shall be conducted in accordance with the following minimum requirements:

- a) The location at which the consumer fireworks display will be detonated must be at least 200 feet, in all directions, away from any spectators, buildings, structures, or property lines, and must be free of any overhead obstructions.
- b) A fire extinguisher or water hose or buckets of water, sand and a shovel must be present while consumer fireworks are being prepared for firing, fired, and at all times after the display until all duds, misfires, and unused product have been properly disposed of and until the consumer operator has determined that fallout from the display does not pose a risk of fire.
- c) Consumer fireworks must be stored in a ready box, made of wood or metal, at all times. The ready box must be covered at all times, including during the discharge of a firework at the discharge site to prevent the accidental discharge of stored fireworks from fallout.
- d) The consumer operator must be in possession of and be able to produce his/her consumer fireworks display permit and certificate of training at all times he/she is present at the display site. If the consumer operator uses assistants, those assistants must be in possession of, and be able to produce, their certificates of training at all times they are present at the display site.

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Section 235.110 Consumer Distributors and Retailers

- a) Prior to distributing, selling, transferring or providing free of charge any consumer fireworks, consumer distributors and consumer retailers shall require an individual to provide proof that he/she has been issued a permit in accordance with Section 235.90, or that he/she has registered with the Office as a consumer distributor or consumer retailer in accordance with this Section.
- b) All consumer distributors and consumer retailers must register with the Office before distributing, selling, offering for sale, exchanging for consideration, transferring or providing free of charge consumer fireworks in the State of Illinois and before advertising or using any title implying that the person is a consumer distributor or retailer. The applicant shall register on forms provided by the Office that shall include:
 - 1) The name and address of the business. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address.
 - 2) The names, telephone numbers, and personal addresses of all owners or officers of the registering business, including a copy of each person's driver's license or other governmental identification that includes the date of birth and photograph.
 - 3) If the business operates under an assumed name, a copy of the assumed name certificate.
 - 4) The address of each location from which consumer fireworks will be distributed or retailed.
 - 5) The applicant's taxpayer identification number and proof of payment of taxes to the Illinois Department of Revenue (DOR). If the applicant does not pay taxes to DOR, the applicant shall submit a statement, sworn to under penalty of perjury, from the applicant or its tax preparer identifying why taxes are not paid.
 - 6) The fee of \$50 shall be payable by check to the Office of the State Fire Marshal.

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- c) The Office shall issue a registration to transfer, provide, distribute and/or sell consumer fireworks or shall notify the applicant of the reason for the denial of registration.
- d) Registration shall permit the consumer distributor or consumer retailer to transfer, provide, distribute and/or sell consumer fireworks in Illinois for the calendar year in which registered.
- e) The consumer distributor or consumer retailer shall register each location from which it distributes or retails consumer fireworks separately.
- f) The registrant shall notify the Office in writing within 10 business days after the change in any of the information it provided to the Office to obtain registration. Proof that a change in name or address has been done in accordance with the law shall be sent to the Office, including copies of new assumed name certificates. In the event a business has changed its officers, a sworn statement listing all of the current officers' names and personal addresses, including copies of each officer's driver's license, shall be sent to the Office.
- g) *No person may sell to a single individual a quantity of consumer fireworks exceeding 499 pounds without prior approval by the Office. [425 ILCS 35/2.3]*
Requests for such approval shall be submitted in writing to the Office.

Section 235.120 Forms

All applications, permits, and site inspection records shall be on forms approved by the Office.

Section 235.130 List of Approved Consumer Fireworks

The Office will maintain a list of approved consumer fireworks. The list will be updated annually or as new consumer fireworks items are submitted to the Office for approval by consumer distributors.

Section 235.140 Consumer Fireworks Review Committee

The State Fire Marshal shall appoint a review committee to review and approve the consumer fireworks that are permitted to be distributed and sold in the State.

- a) The committee shall consist of the following 5 members:

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- 1) The State Fire Marshal or his/her designee, as chair;
 - 4) One representative from the Illinois Fire Chief's Association;
 - 5) One representative from a fire department that has experience in pyrotechnic displays;
 - 6) One representative from a company that distributes consumer fireworks in the State; and
 - 7) One representative from a company that distributes display fireworks in the State.
- b) Members shall serve without salary, but may receive reimbursement for reasonable expenses from the Office from appropriations for such purposes, in accordance with 80 Ill. Adm. Code 2800.
- c) All members shall have one vote and serve a term of 2 years.

Section 235.150 Record of Permits Issued

The local governmental authority shall maintain a copy of each display permit issued for a minimum of 4 years from the date of the display. Any reports of fire, injury, property damage, theft or loss of fireworks that are submitted to the local governmental authority shall be maintained with the copy of the display permit.

Section 235.160 Report of Fire, Injury, or Property Damage

- a) Permit holders shall notify the local governmental authority issuing the permit within 24 hours after the following incident:
- 1) A fire;
 - 2) An injury to any person resulting from the display; or
 - 3) Damage to property in excess of \$500, in the aggregate, resulting from the display.

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- b) The local governmental authority issuing the permit shall notify the Office of any fire, injury to any person, or damage to property in excess of \$500 that resulted from the pyrotechnic or consumer display. This notification shall be made by telephone to 217-785-0969 or in writing within 3 days after learning of the incident. Written reports shall be mailed to the Office of the State Fire Marshal, Pyrotechnic Division, 1035 Stevenson Drive, Springfield IL 62703-4259.

Section 235.170 Report of Theft or Loss of Fireworks

- a) Licensed pyrotechnic distributors and licensed lead pyrotechnic operators shall report the theft or loss of fireworks to local law enforcement in accordance with 41 Ill. Adm. Code 230.190, DNR and ATF.
- b) Consumer distributors and consumer retailers shall report the theft or loss of fireworks in excess of \$150 to local law enforcement immediately. Within 24 hours after discovery of the theft or loss, consumer distributors and consumer retailers shall provide the Office with written notice that includes a complete description of the fireworks, including manufacturer, brand name, any manufacturer marking and quantity, and a description of the circumstances surrounding the theft or loss. The written notice shall also identify the local law enforcement agencies contacted and shall be executed under penalty of perjury.
- c) Consumer operators shall immediately report the theft or loss of fireworks in excess of \$150 to local law enforcement and to the local governmental authority that issued the operator a consumer display permit. Within three days after notification, the local governmental authority that issued the consumer display permit shall notify the Office in writing of the theft or loss.
- d) Written notice shall be mailed to the Office of the State Fire Marshal, Pyrotechnic Division, 1035 Stevenson Drive, Springfield IL 62703-4259.

Section 235.180 Local Authority

Nothing in this Part shall prohibit the local governmental authority:

- a) from adopting rules or standards that are more stringent than this Part; or
- b) from refusing to issue a permit for any reason.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Trifecta
- 2) Code Citation: 11 Ill. Adm. Code 306
- 3) Section Number: 306.20 Proposed Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The reason for this proposed rulemaking is to add and amend language in Section 306.20 that reflects recent changes to Section 306.30 and proposed changes to Sections 1312.260 and 1413.114.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017
- 13) Initial Regulatory Flexibility Analysis:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 306
TRIFECTA

Section	
306.10	Definition
306.20	Entries
306.30	Minimum Fields
306.40	Pool Distribution
306.50	Dead Heats
306.60	Scratches

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

SOURCE: Adopted at 19 Ill. Reg. 15225, effective November 1, 1995; amended at 24 Ill. Reg. 7397, effective May 1, 2000; amended at 26 Ill. Reg. 4900, effective March 20, 2002; amended at 26 Ill. Reg. 12355, effective August 1, 2002; amended at 27 Ill. Reg. 5024, effective March 7, 2003; amended at 30 Ill. Reg. 2651, effective February 21, 2006; amended at 30 Ill. Reg. 10459, effective June 1, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 306.20 Entries

- a) Entries, either coupled or uncoupled, shall be allowed in a trifecta race under the following conditions:
- 1) one entry requires at least six betting interests at the start of the race, except, in the event of a scratch, Section 306.30(a) applies.
 - 2) two entries requires at least eight betting interests at the start of the race.
 - 3) more than two entries shall require approval from the Stewards.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of ~~\$100,000~~\$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3) Section Number: 311.40 Proposed Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The reason for this proposed rulemaking is to add and amend language in Section 311.40 that reflects recent changes to Section 311.35 and proposed changes to Sections 1312.260 and 1413.114.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rule making replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017
- 13) Initial Regulatory Flexibility Analysis:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 311
SUPERFECTA

Section	
311.10	Superfecta
311.20	Pool Distribution
311.25	Scratches
311.30	Dead Heats
311.35	Minimum Fields
311.40	Entries

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

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days; emergency expired February 12, 2003; emergency amendment at 26 Ill. Reg. 16854, effective November 15, 2002, for a maximum of 150 days; emergency expired April 13, 2003; amended at 28 Ill. Reg. 7121, effective May 10, 2004; amended at 29 Ill. Reg. 14024, effective September 1, 2005; amended at 30 Ill. Reg. 2654, effective February 21, 2006; amended at 30 Ill. Reg. 10463, effective June 1, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 311.40 Entries

- a) Entries, either coupled or uncoupled, shall be allowed in a superfecta race under the following conditions:
 - 1) one entry requires at least seven betting interests at the start of the race, except, in the event of a scratch, Section 311.35(a) applies.
 - 2) two entries require at least eight betting interests at the start of the race.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 3) more than two entries shall require approval from the Stewards.
- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of ~~\$100,000~~\$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Entries and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1312
- 3) Section Number: 1312.260 Proposed Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking uncouples same owner entries in stakes races with a purse of \$100,000 or more. The uncoupling of entries will increase the number of betting opportunities and make the race more appealing to the betting public, which results in increased handle and purses.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1312
ENTRIES AND DECLARATIONS

Section

1312.10	Entries
1312.20	Penalties
1312.30	Sale of Horse With Entrance Due
1312.40	Receipt of Entries
1312.50	Postage Meter
1312.60	Deviation From Published Conditions
1312.70	When Ineligible Horse Races
1312.80	Transfer of Ineligible Horse
1312.90	Withholding Purse When Ineligible Horse Races
1312.100	Early Closing and Late Closing Events
1312.110	Subsequent Payments
1312.120	Trust Funds
1312.130	Stable Space
1312.140	Limitation on Conditions
1312.150	Penalties
1312.160	Excess Entry Fees
1312.170	Entries and Starters Required
1312.180	Elimination Heats
1312.190	Elimination Plans
1312.200	Overnight Events
1312.210	Entry Box and Drawing of Horses
1312.220	Substitute Races
1312.230	Drivers
1312.240	Declaration and Withdrawing
1312.250	Qualifying Races
1312.260	Entry or Coupling
1312.265	Uncoupled Entries
1312.270	Husband-Wife Entries
1312.280	Also Eligibles
1312.290	Preference

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1312.300 Stewards' List
1312.310 Medical Reasons for Ineligibility

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

SOURCE: Published in Rules and Regulations of Harness Racing (original date not cited in publication); amended July 12, 1974, filed July 22, 1974; amended February 13, 1976, filed March 1, 1976; amended September 19, 1975, filed October 2, 1975; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; amended at 5 Ill. Reg. 1498, effective February 2, 1981; codified at 5 Ill. Reg. 10934; amended at 15 Ill. Reg. 2727, effective February 5, 1991; amended at 24 Ill. Reg. 7390, effective May 1, 2000; amended at 25 Ill. Reg. 6390, effective May 1, 2001; amended at 27 Ill. Reg. 5030, effective March 7, 2003; amended at 31 Ill. Reg. _____, effective _____.

Section 1312.260 Entry or Coupling

When starters in a race include two or more horses owned or trained by the same stable or by the same management, or same person, they shall be coupled as an "entry", and a wager on one horse in the "entry" shall be a wager on all horses in the "entry". However, the uncoupling of entries with common owners shall be permitted in stakes races with purses of ~~\$100,000~~\$200,000 or more. If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Entries, Subscriptions, and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1413
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1413.114	Amendment
1413.140	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking (1413.114) uncouples same owner entries in stakes races with a purse of \$100,000 or more. The uncoupling of entries will increase the number of betting opportunities and make the race more appealing to the betting public, which results in increased handle and purses. The proposed rulemaking (1413.140) increases the number of runners per race day by reducing the number of scratches and decreasing the amount of changes once the race program has been printed.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago, Illinois 60601

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 1413

ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

Section

1413.10	Registration with Jockey Club
1413.20	Registration Rules
1413.30	Eligibility
1413.40	How Entries are Made
1413.42	Number of Entries
1413.44	48- or 72-Hour Entries
1413.46	Also Eligibles Under 48- or 72-Hour Rule
1413.48	Uncoupled Entries
1413.50	Racing Secretary Receives Entries
1413.60	Supervision of Entries
1413.70	When Entries Close
1413.75	Limitation on Purse Reductions
1413.80	Closing in Absence of Conditions
1413.90	Entry by Telegraph
1413.100	List of Entries
1413.110	Limitations on Entries
1413.114	Coupled Couples As Entry
1413.118	Further Definition of Coupling (Repealed)
1413.120	Riders Designated
1413.130	Carding Purse and Handicap Races
1413.134	Race Fails to Fill
1413.138	Substitute and Extra Races
1413.140	Right to Declare Out
1413.150	Number of Entries
1413.160	Fee to Enter
1413.170	Refunds
1413.180	Error in Entry
1413.190	Irrevocable Declaration
1413.200	Notice of Declaration

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

1413.210	Entry of Unfit Horse
1413.220	Refusal for Inconsistency
1413.230	Horse Ineligible
1413.240	Who May Enter
1413.250	Medical Reasons for Ineligibility
1413.260	Sweepstakes Entries
1413.265	Receipt for Nomination
1413.270	Previous Engagements
1413.280	Transfer of Engagements
1413.290	Transfer of Sweepstakes Engagements
1413.300	Jockey Club Certificates
1413.305	Transfer of Jockey Club Certificate
1413.310	Number of Races in a Day

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

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); passed July 11, 1972; amended April 11, 1974, filed and effective April 30, 1974; passed June 11, 1974; amended July 12, 1974, filed July 22, 1974; amended August 13, 1974, filed August 19, 1974; amended August 15, 1975, filed August 20, 1975; amended September 19, 1975, filed October 2, 1975; amended June 19, 1976; amended July 16, 1976, filed July 23, 1976; amended August 21, 1976, filed August 30, 1976; amended April 26, 1977, filed May 6, 1977; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10981; amended at 15 Ill. Reg. 2730, effective February 5, 1991; amended at 17 Ill. Reg. 1628, effective January 26, 1993; amended at 17 Ill. Reg. 21848, effective December 3, 1993; amended at 18 Ill. Reg. 11612, effective July 7, 1994; amended at 18 Ill. Reg. 17749, effective November 28, 1994; amended at 24 Ill. Reg. 7394, effective May 1, 2000; amended at 24 Ill. Reg. 12725, effective August 1, 2000; amended at 25 Ill. Reg. 178, effective January 1, 2001; amended at 25 Ill. Reg. 15608, effective December 1, 2001; amended at 26 Ill. Reg. 12367, effective August 1, 2002; amended at 31 Ill. Reg. _____, effective _____.

Section 1413.114 Coupled As Entry

Entry shall mean:

- a) A horse made eligible to run in a race; or

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) When starters in a race include two or more horses owned by the same person, or by the same management, they shall be coupled as an "entry", except as provided in 11 Ill. Adm. Code 1413.114(c). A wager on one horse in the "entry" shall be a wager on all horses in the "entry". If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.
- c) The uncoupling of entries, with common owners, shall be permitted in stakes races with purses of ~~\$100,000~~\$250,000 or more with permission of the owner or trainer.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1413.140 Right to Declare Out

- a) In purse races and overnight handicaps with more than ~~nine~~eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. When more than one owner expresses the desire to declare out, the ~~sueh~~ right to declare out shall be determined by lot ~~when necessary~~. Declarations below ~~nine~~eight interests may only be made by permission of the ~~Stewards~~stewards. The also eligibles shall have the preference to scratch over regularly carded horses. In purse races and overnight handicaps moved off the turf with more than eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. When more than one owner expresses the desire to declare out, the right to declare out shall be determined by lot. Declarations below eight interests may only be made by permission of the Stewards.
- b) Horses may be scratched out of stake races not later than 45 minutes before post time of the race.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Business Corporation Act
- 2) Code Citation: 14 Ill. Adm. Code 150
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
150.300	Amended
150.440	Amended
150.445	Amended
150.450	Amended
150.630	Amended
150.631	New
150.635	New
150.705	Amended
150.740	New
- 4) Statutory Authority: Implementing and authorized by Section 2.05 of the Illinois Business Corporation Act [805 ILCS 5/2.05]
- 5) A Complete Description of the Subjects and Issues Involved:

Amended Section 150.300 Corrects technical error

Amended Section 150.440 Redefines distinguishable

Amended Section 150.445 Clarifies the list of names to be checked for name availability.

Amended Section 150.450 Redefines significant differences

Amended Section 150.630 Clarifies the minimum paid-in capital for a corporation with stock that has a par value.

New Section 150.631 Provides rules for amending a previously filed annual report.

New Section 150.635 Provides rules for subjecting all transfers to a corporation's paid-in capital to the franchise taxes imposed by the Business Corporation Act.

Amended Section 150.705 Redefines the determination of paid-in capital

New Section 150.740 Establishes rules for any waiver of penalty

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: New Section 150.635 E & E Hauling, Inc. v. Ryan, 306 Ill. App. 3d 131 (1st Dist., 1999)

Amended Section 150.705 Attorney General Opinion 92-017

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Robert Durchholz
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756

217/782-4909

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: Minimal
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 150
BUSINESS CORPORATION ACT

SUBPART A: HEARING PROCEDURES

Section	
150.10	Applicability
150.20	Definitions
150.30	Right to Counsel
150.40	Appearance of Attorney
150.50	Special Appearance
150.60	Substitution of Parties or Attorneys
150.70	Commencement of Action; Notice of Hearing
150.80	Motions
150.90	Form of Papers
150.100	Conduct of Hearings
150.110	Orders
150.120	Record of Hearings
150.130	Invalidity

SUBPART B: SALE AND RELEASE OF INFORMATION

Section	
150.200	Annual List of Corporations
150.210	Monthly List of Corporations
150.220	Daily List of Corporations
150.230	Computer Access to Information
150.240	Abstracts of Corporate Record
150.250	Invalidity

SUBPART C: ERRORS, REFUNDS, CORRECTIONS, ADJUSTMENTS,
OBJECTIONS, AND OTHER RELIEF

Section	
150.300	Errors or Defects

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

150.305 Financial Data as Support Documentation
150.310 Invalidity

SUBPART D: NAMES

Section
150.400 Preliminary Determination of Availability
150.405 Final Determination of Availability
150.410 Response as to Basis of Unavailability
150.415 Reconsideration Procedure
150.420 Effect of Final Determination
150.425 Applicability
150.430 Availability of Names: Statutory Requirements
150.435 Standards - Conflicting Names
150.440 Distinguishable - Defined
150.445 Matters ~~Not~~ Considered
150.450 ~~Significant~~ Differences
150.455 Surnames
150.460 Alphabet Names
150.465 Government Affiliation
150.470 Restricted and Professional Words
150.475 Acceptable Characters of Print
150.480 Invalidity
150.485 Improper Names

SUBPART E: SERVICE OF PROCESS ON THE SECRETARY OF STATE

Section
150.500 Preamble
150.510 Manner of Service
150.520 Place of Service
150.530 Payment of Fees
150.540 Invalidity

SUBPART F: FEES, FRANCHISE TAX AND LICENSE FEES: ANNUAL REPORT

Section
150.600 Payment of Fees, Franchise Tax and License Fee
150.610 Definitions

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

150.620	Annual Report
150.621	Confidentiality of Annual Report Financial Data
150.630	Shares Having a Par Value
<u>150.631</u>	<u>Amended Annual Report</u>
<u>150.635</u>	<u>Amounts Transferred from Retained Earnings to Paid-in Capital</u>
150.640	Invalidity

SUBPART G: INTERPRETIVE COMMENTS AND GENERAL PROVISIONS

Section	
150.700	Interpretive Comments Applicable Generally
150.705	Paid-In Capital
150.710	Advice to the Public
150.720	Incorporating Licensed Professionals
150.725	Corporation Acting as an Incorporator
150.730	Business Hours
150.735	Electronic Filing
<u>150.740</u>	<u>Documents Returned for Revision and Other Filings – Imposition of Penalties and Interest</u>

AUTHORITY: Implementing and authorized by the Business Corporation Act of 1983 [805 ILCS 5].

SOURCE: Adopted at 9 Ill. Reg. 1433, effective February 1, 1985; amended at 10 Ill. Reg. 5146, effective March 21, 1986; amended at 11 Ill. Reg. 10302, effective June 1, 1987; amended at 17 Ill. Reg. 11571, effective July 15, 1993; amended at 18 Ill. Reg. 7783, effective May 15, 1994; amended at 20 Ill. Reg. 7026, effective May 8, 1996; amended at 21 Ill. Reg. 16173, effective December 1, 1997; amended at 27 Ill. Reg. 550, effective December 27, 2002; amended at 28 Ill. Reg. 3504, effective February 3, 2004; amended at 29 Ill. Reg. 14047, effective September 1, 2005; amended at 30 Ill. Reg. 12961, effective July 11, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: ERRORS, REFUNDS, CORRECTIONS,
ADJUSTMENTS, OBJECTIONS, AND OTHER RELIEF

Section 150.300 Errors or Defects

- a) Matters deemed "errors" or "defects" for which a statement of correction may be filed are facts that have been misreported in a document filed with the Secretary

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

of State's Office and do not include any other matter which in retrospect is considered a mistake or which as to the action reported reflects a subsequent event.

- b) Matters deemed errors or defects in original articles of incorporation are: typographical errors in the names of the first board of directors (but not such as to substitute or delete a person or part); errors in the number of shares proposed to be issued; or errors in the amount of consideration to be received for the initial issue of shares. Any other ~~matters~~ ~~matter(s)~~ shall not be the subject of a statement of correction but, in an appropriate case, shall be dealt with by articles of amendment.
- c) Matters deemed errors or defects in an application for an original or amended certificate of authority of a foreign corporation and for which a statement of correction may be filed are: typographical errors in the corporate name which is not the same as the name shown on the certified copy; errors in the names or addresses of the directors, the officers, or the principal office; errors in the number of shares issued or in the amount of the paid-in capital.
- d) Matters deemed errors or defects for which a statement of ~~correction~~ ~~corrections~~ may be filed in a reservation of transfer of corporate name, an application to adopt, change or cancel an assumed corporate name, an application for registration or renewal of corporate name (foreign), a statement of change or notice of resignation of registered agent/office, or an application for reinstatement not including the corporate or assumed corporate name are those in the personal names or addresses reported therein, but not those alleged errors which would substitute or delete a person or party or address.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART D: NAMES

Section 150.440 Distinguishable – Defined

A corporate name is distinguishable ~~first, when not substantially the same as a name on record, and second,~~ when containing a ~~significant~~ difference from other names on the record ~~when~~ ~~the~~ ~~which~~ corporate name distinguishability is ~~plainly~~ recognizable by the Secretary of State or his/her designee ~~by means of sight and sound.~~

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(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 150.445 Matters ~~Not~~ Considered

Only the proposed name and the names of active corporations and limited liability companies (corporations and limited liability companies in good standing ~~or~~ that have not been dissolved or revoked) ~~or limited liability companies~~ on record are considered in determining name availability. Among the matters not considered are:

- a) the purpose, location or relative size of the business;
- b) the intent of the applicant;
- c) any consent by a corporation bearing a similar title;
- d) the names of unincorporated entities;
- e) the common law or statutory law of unfair competition, unfair trade practices, trade marks, trade names, service marks, service names, copyrights or any other right to the exclusive use of names or symbols;
- f) the names of corporations or limited liability companies not on record with the Secretary of State;
- g) whether or not the public may be likely to be deceived or misled by the resemblance of the proposed name to the name of other corporations or limited liability companies;
- h) whether or not an existing corporation or limited liability company may possibly be injured by a resemblance to the proposed name.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 150.450 ~~Significant~~ Differences

Corporate names are deemed not to be distinguishable when a comparison of the names reveals no difference except for:

- a) one or more of the termswords, "corporation", "company", "incorporated", ~~or~~

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"limited", or "limited liability company" or an acceptable abbreviation thereof, ~~"limited liability company", "LLC", or "L.L.C."~~, regardless of where in the name such term may appear;

- b) the inclusion or omission of punctuation ~~articles of speech, conjunctions, contractions (or symbols thereof), prepositions, or a letter or letters;~~
- c) ~~an abbreviation versus a spelling out of a word; a different tense of a word; or the use of the singular as opposed to the plural of a word;~~
- d) ~~the spacing of words, the combination of commonly used two word terms (including points of the compass), the misspelling, phonetic spelling or any other deviation or derivation of substantially the same base word, abbreviation or symbol;~~
- e) ~~the presence or absence of multiple letters within a word.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART F: FEES, FRANCHISE TAX AND LICENSE FEES: ANNUAL REPORT

Section 150.630 Shares Having a Par Value

The consideration received at the time of the issuance of shares or, in the case of shares issued as a share dividend, the amount added or transferred to the paid-in capital for or on account of the issuance of shares cannot be less than the aggregate par value of the shares issued, and at no time shall the paid-in capital be ~~reduced to~~ an amount less than the aggregate par value of all issued shares.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 150.631 Amended Annual Report

- a) A corporation may amend its most recently filed annual report to denote any subsequent changes in the names and addresses of its officers and directors, principal place of business and/or status as a minority or female owned business. The amended annual report must set forth the information required in Section 14.05(a), (b), (c), (d), (e), (f), (g) and (i) of the Business Corporation Act.

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- b) An amended annual report shall not take the place of any document, statement or report otherwise required to be filed by the Business Corporation Act.
- c) The filing fee for an amended annual report will be the amount set forth in Section 15.10(o) of the Business Corporation Act.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 150.635 Amounts Transferred from Retained Earnings to Paid-in Capital

All amounts transferred from a corporation's retained earnings or any other entry in its stockholder's equity to its paid-in capital are subject to the franchise taxes imposed by the Business Corporation Act.

(Source: Added at 31 Ill. Reg. _____, effective _____)

SUBPART G: INTERPRETIVE COMMENTS AND GENERAL PROVISIONS

Section 150.705 Paid-In Capital

The phrase "paid-in capital represented by ~~shares acquired and cancelled~~~~such acquired shares~~" contained in Section ~~9.20(a)(1)(i)~~~~1.80(j)~~ of the Act shall mean the ~~cost or~~ actual cost of the re-acquired shares paid by the corporation. At no time shall the paid-in capital of a corporation be reduced to an amount less than the consideration received for the remaining issued shares, or decrease in paid-in capital, to the corporation from the acquisition of shares. Except, that in the case of In order to effect a reduction in the paid-in capital of the surviving corporation in a merger of a parent corporation into its wholly-owned subsidiary corporation, the parent corporation a wholly-owned subsidiary, which subsidiary is created and funded totally from the assets of the parent corporation, the merger of the subsidiary back into the parent corporation shall not result in the totalling of the paid-in capital of the parent and subsidiary corporations as to corporate funds or assets which were not created previously by one of the merging corporations and transferred to the other corporation. The surviving corporation must demonstrate by competent financial evidence presented to the Department what the history of the financial transactions are between the parent and subsidiary corporation. If the request of the corporation is denied, it may seek relief pursuant to Subpart A of this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 150.740 Documents Returned for Revision and Other Filings – Imposition of Penalties and Interest

Any document delivered to the Secretary of State within the time prescribed by the Business Corporation Act that is not in compliance with the Act shall not incur the penalties imposed in the Act for failure to file within the prescribed time if the document is corrected to conform to the requirements of the Act and returned to the Secretary of State within 30 days after the date the document was returned for revision. Other filings may also be subject to the imposition of penalties and interest pursuant to the Act. The Department Director, or his or her designee, retains sole discretion in determining the application of all penalty and interest fees as determined under the provisions of the Act. In the event that exception is taken to waive a penalty fee for any reason other than the 30-day time period, such action will be recorded in a file maintained in the Director's Office. The file will be in memorandum form and will document the date, the filing entity, the Director's justification for the waived fee, and the value of the fee.

(Source: Added at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: General Not For Profit Corporations
- 2) Code Citation: 14 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
160.19	New
160.20	New
- 4) Statutory Authority: Implementing and authorized by Section 101.55(b) of the Illinois General Not For Profit Corporation Act [805 ILCS 105/1.55(b)]
- 5) A Complete Description of the Subjects and Issues Involved:

New Section 160.19 Establishes rules for filing Statements of Correction

New Section 160.20 Establishes rules for amending a previously filed annual report
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Robert Durchholz
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756

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217/782-4909

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: Minimal
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which these rulemakings were summarized: January 2007

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 160
GENERAL NOT FOR PROFIT CORPORATIONS

Section	
160.10	Definitions
160.11	Office Location and Business Hours
160.12	Sale of Information
160.13	Fees
160.14	Abstracts and Records
160.15	Hearings
160.16	Names
160.17	Service of Process
160.18	Electronic Filing
160.19	Errors or Defects
160.20	Amended Annual Report

AUTHORITY: Implementing and authorized by the General Not for Profit Corporation Act of 1986 [805 ILCS 105].

SOURCE: Adopted at 11 Ill. Reg. 10309, effective June 1, 1987; amended at 20 Ill. Reg. 7045, effective May 8, 1996; amended at 30 Ill. Reg. 12966, effective July 11, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 160.19 Errors or Defects

- a) Matters deemed "errors" or "defects" for which a statement of correction may be filed are facts that have been misreported in a document filed with the Secretary of State's Office and do not include any other matter that, in retrospect, is considered a mistake or that, as to the action reported, reflects a subsequent event.

- b) Matters deemed errors or defects in original articles of incorporation are: typographical errors in the names of the first board of directors (but not such as to substitute or delete a person or part). Any other matters shall not be the subject of a statement of correction but, in an appropriate case, shall be dealt with by articles of amendment.

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- c) Matters deemed errors or defects in an application for an original or amended authority of a foreign corporation and for which a statement of correction may be filed are: typographical errors in the corporate name which is not the same as the name shown on the certified copy; errors in the names or addresses of the directors, the officers, or the principal office.
- d) Matters deemed errors or defects for which a statement of correction may be filed in a reservation of transfer of corporate name, an application to adopt, change or cancel an assumed corporate name, an application for registration or renewal of corporate name (foreign), a statement of change or notice of resignation of registered agent/office, or an application for reinstatement not including the corporate or assumed corporate name are those in the personal names or addresses reported therein, but not those alleged errors that would substitute or delete a person or party or address.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 160.20 Amended Annual Report

- a) A corporation may amend its most recently filed annual report to denote any subsequent changes in the names and addresses of its officers and directors, principal place of business and/or status as a Condominium Association, Homeowner's Association or Cooperative Housing Corporation. The amended annual report must set forth the information required in Section 114.05 of the General Not For Profit Corporation Act of 1986 (the Act).
- b) An amended annual report shall not take the place of any document, statement or report otherwise required to be filed by the Act.
- c) The filing fee for an amended annual report will be the amount set forth in Section 115.10(m) of the Act.

(Source: Added at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Limited Liability Company Act
- 2) Code Citation: 14 Ill. Adm. Code 178
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
178.135	Amend
178.140	Amend
178.145	Amend
- 4) Statutory Authority: Implementing and authorized by Section 15 Secretary of State Act [15 ILCS 305/15] and 50-20 of the Illinois Limited Liability Company Act [805 ILCS 180/50-20]
- 5) A Complete Description of the Subjects and Issues Involved: Amended Section 178.135. Removes subjective criteria from the definition of "distinguishable", thus bringing the rule into conformity with the language of Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10].

Amended Section 178.140. Better recognizes the requirement of Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10] that limited liability company name must be distinguishable from corporate names as well as from the names of other limited liability companies, and removes the errant qualification that the other limited liability companies must be "in good standing", thus placing the emphasis on the requirement that a company has not been dissolved or revoked.

Amended Section 178.145. Allows the "distinguishable" requirement appearing in Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10] to be the authority on the availability of a new limited liability company name by removing the restrictions that resurrected the "deceptively similar" standard derived from the Business Corporation Act of 1933 but not carried forward in the Business Corporation Act of 1983.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking? None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No, though it should be mentioned that similar rules are being proposed in connection with corporations (Part 150).
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:
- Chuck Moles
Department of Business Services
Room 351, Howlett Building
Springfield, Illinois 62756
- 217/782-4875
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Limited liability companies, most of which are small businesses, will have an expanded field of available names, which will have the result of making Illinois more attractive as the chosen state of domicile or organization.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which these rulemakings were summarized: January 2006

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

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 178
LIMITED LIABILITY COMPANY ACT

SUBPART A: RIGHTS AND REQUIREMENTS

Section	
178.10	Definitions
178.15	Applicability
178.20	Filing Requirements
178.25	Additional Requirements for Forms
178.30	Filing Location
178.35	Business Hours
178.40	Sales of Information
178.45	Right to Counsel
178.50	Service of Process
178.55	Payment of Fees
178.60	Refunds
178.65	New Practices and Technologies

SUBPART B: NAMES

Section	
178.100	Availability of Names: Statutory Requirements
178.105	Preliminary Determination of Availability
178.110	Final Determination of Availability
178.115	Response as to Basis of Unavailability
178.120	Reconsideration Procedure
178.125	Effect of Final Determination
178.130	Standards – Conflicting Names
178.135	Distinguishable – Defined
178.140	Matters Not Considered
178.145	Significant Differences
178.150	Surnames
178.155	Alphabet Names
178.160	Government Affiliation

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178.165	Restricted and Professional Words
178.170	Acceptable Characters of Print
178.175	Invalidity
178.180	Assumed Names
178.185	Foreign LLC with Prohibited Name
178.190	Improper Names

AUTHORITY: Implementing and authorized by the Limited Liability Company Act [805 ILCS 180].

SOURCE: Adopted at 17 Ill. Reg. 22055, effective January 1, 1994; amended at 20 Ill. Reg. 7050, effective May 8, 1996; amended at 21 Ill. Reg. 16178, effective December 1, 1997; amended at 27 Ill. Reg. 8884, effective May 19, 2003; amended at 28 Ill. Reg. 3509, effective February 3, 2004; amended at 29 Ill. Reg. 19699, effective November 28, 2005; amended at 30 Ill. Reg. 12969, effective July 11, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART B: NAMES

Section 178.135 Distinguishable – Defined

A limited liability company name is distinguishable ~~first, when not substantially the same as a name on record, and second,~~ when containing a ~~significant~~ difference from other names on the record. A ~~significant~~ difference exists when the limited liability company name distinguishability is ~~plainly~~ recognizable by the Secretary of State or his/her designee ~~by means of sight and sound~~.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 178.140 Matters Not Considered

Only the proposed name and the names of active limited liability companies or corporations (limited liability companies ~~in good standing~~ or corporations that ~~which~~ have not been dissolved or revoked) are considered in determining name availability. Among the matters not considered are:

- a) the purpose, location or relative size of the business;
- b) the intent of the applicant;

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- c) any consent by a limited liability company or corporation bearing a similar title;
- d) the names of other unincorporated entities;
- e) the common law or statutory law of unfair competition, unfair trade practices, trade marks, trade names, service marks, service names, copyrights or any other right to the exclusive use of names or symbols;
- f) the names of limited liability companies or corporations not on record with the Secretary of State;
- g) whether the public may be likely to be deceived or misled by the resemblance of the proposed name to the name of other limited liability companies or corporations;
- h) whether an existing limited liability company or corporation may possibly be injured by a resemblance of the proposed name.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 178.145 ~~Significant~~ Differences

Limited liability company names are deemed not to be distinguishable when a comparison of the names reveals no difference except for:

- a) one or more of the following: limited liability company, LLC, L.L.C., corporation, company, incorporated, limited, or an abbreviation thereof, regardless of where in the name such may appear;
- b) the inclusion or omission of punctuation, articles of speech, conjunctions, contractions (or symbols thereof), prepositions, or a letter or letters;
- c) an abbreviation versus a spelling out of a word; a different tense of a word; or the use of the singular as opposed to the plural of a word;
- d) the spacing of words, the combination of commonly used two word terms (including points of the compass), the misspelling, phonetic spelling or any other deviation or derivation of substantially the same base word, abbreviation or

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symbol;

e) ~~the presence or absence of multiple letters within a word.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Uniform Commercial Code
- 2) Code Citation: 14 Ill. Adm. Code 180
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
180.11	Amendment
180.12	Amendment
180.15	Amendment
180.17	Amendment
180.18	Amendment
180.19	New
- 4) Statutory Authority: Implementing and authorized by Sections 9-512, 9-519, 9-523 and 9-526 of the Illinois Uniform Commercial Code Act [810 ILCS 5/9-512, 9-519, 9-523 and 9-526]
- 5) A Complete Description of the Subjects and Issues Involved: Amendment to Section 180.11 (b). Changes the name of the International Association of Corporation Administrators.

Amendment to Section 180.12. Changes the name of the International Association of Corporation Administrators.

Amendment to Section 180.15 (b)(2). Provides clarification for the last day for filing a continuation.

Amendment to Section 180.17 (d). Adds a time limit for correction of documents.

Amendment to Section 180.18 (b)(4). Changes the name of the International Association of Corporation Administrators.

New Section 180.19. Provides rules establishing standards for the acceptance of XML online filing documents.
- 6) Published Studies or Reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:
Written comments may be submitted within 45 days to:

Dennis L. Hankins, Administrator
Illinois Secretary of State
Department of Business Services/UCC Division
Howlett Building Room 350 West
501 South Second Street
Springfield, Illinois 62756

217/524-3356 Fax: 217/558-4430
email: dhankins@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which these rulemakings was summarized: January 2007

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

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 180
UNIFORM COMMERCIAL CODE

Section

180.10	Definitions
180.11	Tender of UCC Records for Filing/Search Request Delivery
180.12	Forms
180.13	Filing Fees/Methods of Payment/Overpayment and Underpayment Policies
180.14	Public Record Services
180.15	Acceptance and Refusal of Records
180.16	UCC Information Management System
180.17	Filing and Data Entry Procedures
180.18	Search Requests and Reports
<u>180.19</u>	<u>XML Documents</u>

AUTHORITY: Implementing and authorized by Article 9 of the Uniform Commercial Code [810 ILCS 5/Art. 9].

SOURCE: Adopted at 12 Ill. Reg. 17431, effective November 1, 1988; amended at 18 Ill. Reg. 2101, effective February 1, 1994; amended at 20 Ill. Reg. 7064, effective May 8, 1996; emergency amendment at 25 Ill. Reg. 9984, effective July 23, 2001, for a maximum of 150 days; emergency expired December 19, 2001; amended at 26 Ill. Reg. 7448, effective May 2, 2002; amended at 29 Ill. Reg. 19704, effective November 28, 2005; amended at 30 Ill. Reg. 12977, effective July 11, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 180.11 Tender of UCC Records for Filing/Search Request Delivery

- a) UCC records may be tendered for filing at the UCC Division as follows:
 - 1) Personal delivery, at the UCC Division's street address. The file time for a UCC record delivered by this method is when delivery of the UCC record is accepted by the filing office (even though the UCC record may not yet have been accepted for filing and subsequently may be rejected). The date and time of receipt are stamped on the document or otherwise permanently

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associated with the record maintained for a UCC document in the UCC information management system.

- 2) Courier delivery, at the UCC Division's street address. The file time for a UCC record delivered by this method is, notwithstanding the time of delivery, the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). The date and time of receipt are stamped on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system. A UCC record delivered after regular business hours or on a day the filing office is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the filing office is open for business.
- 3) Postal service delivery, to the filing office's mailing address. The file time for a UCC record delivered by this method is the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). The date and time of receipt are stamped on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system. A UCC record delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.
- 4) The Secretary of State offers online information and electronic filing and search services through the website of the Secretary of State at www.cyberdriveillinois.com. The file time for a UCC document delivered by this method is the time that the Secretary of State's system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.
- 5) The UCC Division filing office hours.
 - A) The UCC Division business hours for personal delivery, courier delivery and postal service delivery are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, in Springfield only.

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- B) Electronic filing and search services are available 24 hours per day, 365 days per year, except for scheduled maintenance and unscheduled interruptions of service.
- 6) The office address is Howlett Building, Room 350 West, 501 South Second Street, Springfield IL 62756. All incorporated materials and forms referenced in this Part are available to the public for inspection and copying at this address.
- b) UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office. A search request for a debtor named on an initial financing statement may not be made on the initial financing statement form, even if the form has a space for that request. Search requests must be made on the UCC-11 form approved by the International Association of ~~Commercial~~ ~~Corporation~~ Administrators, as incorporated by reference in Section 180.12 of this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 180.12 Forms

The forms prescribed by Section 9-521 of the UCC [810 ILCS 5/9-521] shall be accepted by the filing office. Forms approved by the International Association of ~~Commercial~~ ~~Corporation~~ Administrators (IACA) on or prior to July 1, 2006 and forms approved by the UCC Division shall be accepted. Copies of the forms approved by IACA as of July 1, 2006 are available on the Secretary of State's website at www.cyberdriveillinois.com, on IACA's website at www.iaca.org and at IACA, 3851 Essen Lane, Baton Rouge LA 70816. The incorporations of forms in this Section do not include any later amendments or editions.

- a) In order to insure the legibility after records are scanned into the imaging system of the UCC Division, the information on each record submitted shall be typewritten or computer generated typeface. The names and addresses of the debtor and the secured party shall be in capital letters with a font size of at least 12 in Times New Roman style.
- b) The remitter shall submit two copies of each record, along with a self-addressed stamped envelope. The UCC Division shall retain one copy for its records and return one copy to the remitter as an acknowledgement. If only one copy is

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submitted, it will be stamped "No Acknowledgement Received" and the UCC Division will retain that copy for its records. There will be no acknowledgement copy returned to the remitter.

- c) All UCC records must contain the full legal name of the debtor and indicate whether the debtor is an individual or an organization. If the debtor is an organization, the record must include the type of organization, the jurisdiction of the organization, and the organizational identification number of the debtor. Records that do not contain this information will not be accepted for filing. The disclosure on the records of the social security number or tax identification number of the debtor is voluntary only, and records will be accepted for filing without the number. The disclosure on the records of the social security number or tax identification number of the debtor is non-required information and, due to the sensitive nature of the information, it will be redacted from the record.
- d) When submitting a UCC-3 Amendment to delete more than a single debtor name, a separate UCC-3 Amendment form must, pursuant to Section 9-512 of the UCC, be completed for each debtor name to be deleted. A separate fee must also be tendered for each UCC-3 Amendment form submitted.
- e) When submitting a UCC-3 Amendment pursuant to Section 9-512 of the UCC, only one UCC-3 Amendment type per form will be permitted. A separate fee must also be tendered for each UCC-3 Amendment form submitted.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 180.15 Acceptance and Refusal of Records

- a) Role of Secretary. The duties and responsibilities of the Secretary with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record, the Secretary does none of the following:
 - 1) Determine the legal sufficiency or insufficiency of a record.
 - 2) Determine that a security interest in collateral exists or does not exist.
 - 3) Determine that information in the record is correct or incorrect, in whole or in part.

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- 4) Create a presumption that information in the record is correct or incorrect, in whole or in part.
- b) Grounds for refusal. In addition to the grounds listed in Section 9-516 of the UCC [810 ILCS 5/9-516], allowing the filing officer to refuse a UCC record, the filing officer shall refuse a UCC record if the record contains more than one secured party or assignee name or address and some names or addresses are missing or illegible, or no address is given in the address field. As used in this Section, address is deemed to include street address, city, state and postal code.
- 1) Deadline for filing a continuation statement. The first day on which a continuation statement may be filed is the date corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse.
 - 2) Last day permitted. The last day on which a continuation may be filed is the last business day preceding the date upon which the financing statement lapses.
- c) Procedure upon refusal. Except as provided in Section 180.13 of this Part, if the filing officer finds grounds to refuse a UCC record, the filing officer shall return the record to the remitter and shall return the filing fee.
- d) Notification of defects. Nothing in this Section prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so, or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for legal effectiveness.
- e) Refusal errors. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been, the filing officer will file the UCC record with a filing date and time assigned when the filing occurs. The filing officer will also file a filing officer statement that states the effective date and time of filing, which shall be the date

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and time the UCC record was originally tendered for filing.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 180.17 Filing and Data Entry Procedures

- a) Errors of the filing office. The filing officer may correct the errors of filing office personnel in the UCC information management system at any time. If the correction occurs after the filing officer has issued a certification date, the filing officer shall file a filing officer correction statement in the UCC information management system identifying the record to which it relates and the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved as long as the record of the initial financing statement is preserved in the UCC information management system.
- 1) In the case of a data entry error that caused the record in the UCC information management system to be different from the originally submitted document, the record indexed in the management system will be corrected to correspond with the originally submitted record.
 - 2) In the case of an error on the part of the filer that is noticed after a certification date has been issued, the filing office is under no obligation to make the corrections. It is the responsibility of the filer to correct any errors pursuant to Sections 9-511, 9-512 and 9-518 of the UCC [810 ILCS 5/9-511, 9-512 and 9-518].
- b) Data entry of names – designated fields. A filing should designate whether a name is a name of an individual or an organization. If the name is that of an individual, the first, middle and last names and any suffix shall be given.
- 1) Organization names. Organization names are entered into the UCC information management system exactly as set forth in the UCC record, even if it appears that multiple names are set forth in the record, or if it appears that the name of an individual has been included in the field designated for an organization name.
 - 2) Individual names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the field, last name first, then first name, middle name, and any suffix

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in the UCC information management system exactly as set forth on the form.

- 3) Designated fields encouraged. The filing office encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Such forms diminish the possibility of filing office error and help assure that filers' expectations are met. However, filers should be aware that the inclusion of names in an incorrect field or failure to transmit names accurately to the filing office may cause filings to be ineffective.
- c) Notice of bankruptcy. The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 180.18 Search Requests and Reports

General requirements. The filing officer maintains for public inspection a searchable index for all records of UCC documents. The index shall provide for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement of each filed UCC record relating to the initial financing statement.

- a) Search requests. Search requests shall contain the following information:
 - 1) Name searched. A search request should set forth the name of the debtor to be searched and must specify whether the debtor is an individual or an organization. A search request will be processed using the name in the exact form it is submitted. Each search request shall be limited to one debtor name.
 - 2) Requesting party. The name and address of the person to whom the search report is to be sent.
 - 3) Fee. The appropriate fee shall be enclosed, payable by a method described in Section 180.13 of this Part.

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- 4) Search request with filing. If a filer requests a search at the time a UCC record is filed, a UCC-11 form designating the exact debtor name from the initial financing statement shall be submitted. The requesting party shall be the name and address to whom the search report should be sent, and the search request shall be deemed to request a search that would retrieve all financing statements filed on or prior to the date the UCC record is filed. The filer shall submit the search request on a UCC-11 form.
- b) Rules applied to search requests. Search results are produced by the application of standardized search logic to the name presented to the filing officer. Human judgment does not play a role in determining the results of the search. The following rules apply to searches:
- 1) There is no limit to the number of matches that may be returned in response to the search criteria.
 - 2) No distinction is made between upper and lower case letters.
 - 3) Punctuation marks and accents are disregarded.
 - 4) Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the "Ending Noise Words" list as promulgated and adopted by the International Association of ~~Commercial Corporation~~ Administrators are disregarded. Such words include, but are not limited to, the following:

Agency	Incorporated	PLCC
Trustee	LC	Prof Assn
Assc	Limited	Prof Corp
Assn	Limited Liability	Professional
Assoc	Company	Association
Associates	Limited Liability	Professional
Association	Partnership	Corporation
Attorneys at Law	Limited	Professional
Bank	Partnership	Limited
Business Trust	LLC	Liability
Charter	LLLP	Company
Chartered	LLP	Real Estate
Co	LP	Investment Trust

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Company	Ltd.	Registered
Corp	Ltd. Partnership	Limited
Corporation	MDPA	Liability
Credit Union	MDPC	Partnership
CU	Medical Doctors	REIT
FCU	Professional	RLLP
Federal Credit	Association	SA
Union	Medical Doctors	Savings
Federal Savings	Professional	Association
Bank	Corporation	Sole
FSB	NA	Proprietorship
Gen Part	National	SP
General	Association	SPA
Partnership	National Bank	Trust
GP	PA	Trustee
Inc	Partners	

- 5) The word "the" if used anyplace in the search criteria is disregarded.
 - 6) All spaces are disregarded.
 - 7) For first and middle names of individuals, initials are treated as the logical equivalent of all names that begin with such initials, and first name and no middle name or initial is equated with all middle names and initials. For example, a search request for "John A. Smith" would cause the search to retrieve all filings against all individual debtors with "John" or the initial "J" as the first name, "Smith" as the last name, and with the initial "A" or any name beginning with "A" in the middle name field. If the search were for "John Smith" (first and last names with no designation in the middle name field), the search would retrieve all filings against individual debtors with "John" or the initial "J" as the first name, "Smith" as the last name and with any name or initial or no name or initial in the middle name field.
 - 8) After using the preceding rules to modify the name to be searched, the search will reveal only names of debtors that are contained in unlapsed financing statements and exactly match the name requested, as modified.
- c) Optional information. A UCC search request may contain any of the following information:

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- 1) The request may limit the records requested by limiting them by the address of the debtor, the city of the debtor, the date of filing (or a range of filing dates) on the financing statements. A report created by the filing officer in response to such a request shall contain the statement "A limited search may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search".
 - 2) The request may ask for copies of UCC records identified on the primary search response.
 - 3) Instructions on the mode of delivery desired, if other than by ordinary mail, which will be honored if the requested mode is available to the filing office.
- d) Search responses. Reports created in response to a search request shall include the following:
- 1) Filing officer. Identification of the filing officer and the certification of the filing officer required by law.
 - 2) Report date. The date the report was generated.
 - 3) Name searched. Identification of the name searched.
 - 4) Certification date. The certification date and time for which the search is effective.
 - 5) Identification of initial financing statements. Identification of each unexpired initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.
 - 6) History of financing statement. For each initial financing statement on the report, a listing of all related UCC records filed by the filing officer on or prior to the certification date.
 - 7) Copies. Copies of all UCC records revealed by the search and requested by the searcher.

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(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 180.19 XML Documents

- a) IACA standard adopted. The XML Format as adopted by the International Association of Commercial Administrators shall be adopted in Illinois for electronic transmission of UCC records. An E-filing account must be created before submitting an XML filing. The electronic filing shall pass verification to the DTD (Document Type Definition). Failure to pass this verification shall result in rejection of the record pursuant to Section 9-516 of the UCC [810 ILCS 5/9-516].
- b) Implementation guide. The filing office shall publish an implementation guide that prescribes the use of the XML Format. The guide shall be available to the public upon request.
- c) Direct on-line data entry procedures. Upon application and approval of an E-filing account, the remitter shall receive direct on-line data entry procedures to file UCC records on-line. Persons interested in filing records in this manner shall contact the UCC Division at the address listed in Section 180.11 of this Part.

(Source: Added at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Sample Collection for Genetic Marker Indexing
- 2) Code Citation: 20 Ill. Adm. Code 1285
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1285.10	Amendment
1285.20	Amendment
1285.30	Amendment
1285.40	Amendment
1285.50	Amendment
1285.60	Amendment
1285.70	Amendment
1285.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5-4-3 of the Unified Code of Corrections [730 ILCS 5/5-4-3] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]
- 5) A Complete Description of the Subjects and Issues Involved: Amendments are being proposed in order to update procedures for the collection of body fluid samples from certain offenders. Amendments include: clarification of the purpose of samples taken from the offender database; clarification of the responsibilities of the designated agency with respect to offender eligibility; addition of a sub section to reflect the responsibilities of the Department of Juvenile Justice; changes to reflect the Department of Human Services' custodial authority for offenders who have been committed as sexually violent persons; addition of language regarding the validation of ineligible samples collected; addition of language regarding the collection and use of voluntary samples; addition of language to provide privacy protection for the information contained in the database as prescribed by statute; clarification regarding court orders for expungements; and clarification of access to the genetic marker database.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain any incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:
- Mr. Keith Jensen
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, Illinois 62794-9461
- 217/782-7658
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2007

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1285
SAMPLE COLLECTION FOR GENETIC MARKER INDEXING

SUBPART A: PROMULGATION

Section	
1285.10	Purpose
1285.20	Definitions

SUBPART B: OPERATIONS

Section	
1285.30	Responsibilities
1285.40	Voluntary Samples
1285.50	Procedures for Collection
1285.60	Privacy Protection
1285.70	Expungement of Records
1285.80	Non-participation
1285.90	Maintenance of Genetic Marker Groupings

AUTHORITY: Implementing and authorized by Section 5-4-3 of the Unified Code of Corrections [730 ILCS 5/5-4-3] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 16 Ill. Reg. 12595, effective July 23, 1992; amended at 17 Ill. Reg. 22571, effective December 15, 1993; amended at 21 Ill. Reg. 17110, effective December 11, 1997; emergency amendment at 26 Ill. Reg. 18493, effective December 16, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 8303, effective April 28, 2003; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: PROMULGATION

Section 1285.10 Purpose

- a) The purpose of this Part is to provide procedures and define responsibilities for the collection of body fluid samples from certain offenders or from individuals

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eligible per statute for collection and databasing. These samples are required by law to be collected to enable genetic marker grouping analysis and indexing. The results shall be available for future criminal investigations and other forensic analysis purposes. Genetic marker grouping analysis and indexing may include, but is not limited to, those procedures known as DNA profiling, DNA indexing, and other processes used to identify distinctive genetic characteristics.

- b) A match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal offender DNA database may be used only to sustain probable cause for the issuance of a warrant to obtain a separate DNA sample for confirmation.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

1285.20 Definitions

Unless specified otherwise, all terms shall have the meaning set forth in Section 5-4-3 of the Unified Code of Corrections [730 ILCS 5/5-4-3]. For purposes of this Part, the following additional definitions apply:

"Act" means the Unified Code of Corrections [730 ILCS 5].

"CODIS" means the Combined DNA Index System.

"Department" means the Illinois Department of State Police.

"Designated Agency" means the entity designated by this Part to be responsible for the identification of and collection of samples from eligible individuals per statute and includes successor agencies~~the collection of samples.~~

"FBI" means the Federal Bureau of Investigation~~.~~

"Kit" means the Genetic Marker Indexing Kit provided by the Department.

"Qualifying offender" means any person described at Section 5-4-3(a) of the Act.

"Sample" means specimens of biological material from a qualifying offender.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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SUBPART B: OPERATIONS

Section 1285.30 Responsibilities

- a) When a person becomes a qualifying offender, the State's Attorney shall, at the time of sentencing, request that the court issue an order requiring the qualifying offender to comply with Section 5-4-3(a) of the Act.
- b) At the time of sentencing the qualifying offender, the sentencing judge shall issue an order requiring the offender to provide specimens that shall be submitted to the Department in accordance with Section 5-4-3(a) of the Act.
- c) The designated agency responsible for sample collection of qualifying offenders is as followed:
 - 1) If the qualifying offender has not previously had a sample taken and is serving a term of incarceration in a facility under the control of the county sheriff, or is being transferred to another state to serve the sentence, the sheriff's office is the designated agency and is responsible for the collection of the sample prior to the release or transfer of the offender.
 - 2) If the qualifying offender has not previously had a sample taken and is transferred to a facility under the control of the Department of Corrections to serve a term of incarceration, the Department of Corrections is the designated agency and is responsible for the collection of the sample from the offender before his/her release on parole, or mandatory supervised release or final discharge or, in the event the offender is sentenced to death or natural life, at any time.
 - 3) If the qualifying offender has not previously had a sample taken and is transferred to a facility under the control of the Department of Juvenile Justice to serve a term of incarceration, the Department of Juvenile Justice is the designated agency and is responsible for the collection of the sample from the offender before his/her release on parole, mandatory supervisor release or final discharge or, in the event the offender is sentenced to death or natural life, at any time.

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- 43) If the qualifying offender has not previously had a sample collected and is transferred to the Department of Corrections to be institutionalized as a sexually dangerous person or institutionalized as a person found guilty but mentally ill of a sexual offense or an attempted sexual offense, the Department of Corrections is the designated agency and is responsible for the collection of the sample any time prior to release of the offender.
- 54) If the qualifying offender has not previously had a sample collected and is ordered committed as a sexually violent person, the Department of Human Services~~Department of Corrections~~ is the designated agency and is responsible for the collection of the sample prior to the release of the offender.
- 65) If the qualifying offender has not previously had a sample collected and is serving a sentence but not physically incarcerated, the supervising agency (such as a probation office) is the designated agency and is responsible for collection of the sample prior to the termination of the sentence.
- 76) If the qualifying offender for any reason is not under the control or supervision of any agency listed above, then the probation authority of the sentencing jurisdiction is the designated agency.
- d) In the event no court order has been issued at the time of sentencing requiring the qualifying offender to provide a sample, the designated agency shall request the State's Attorney of the county of conviction or the county in which the offender is located to request the court to issue such an order. The court shall issue an order requiring the offender to provide the sample.
- e) If the offender consents to provide the sample without a court order, no court order is necessary and the State's Attorney is not required to request one.
- f) A general order issued under the administrative authority of the chief judge of a circuit of proper jurisdiction is sufficient to satisfy the court order requirements of this Section. In the event such an order exists and is valid with respect to the qualifying offender, the State's Attorney need not seek an individualized order.
- g) The designated agency is responsible for ensuring that the offender is eligible for collection under the statute. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is

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determined that the person from whom the sample was obtained or placed in the database was ineligible under the statute.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1285.40 Voluntary Samples

Individuals may voluntarily provide samples for the Convicted Offender DNA database if they sign the informed consent section of the sample collection receipt contained in the collection kit. The voluntary sample will be used for criminal investigations by comparing the DNA profile from the individual with DNA profiles from crime scene samples. The DNA Indexing Sample Collection Kit is not to be used to collect samples in missing persons investigations. The local ISP forensic laboratory should be contacted for collection instructions in such investigations. ~~to assist in missing person investigations or for other forensic analysis purposes. Collection and processing procedures for such samples shall be the same as those used for samples collected from qualifying offenders.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1285.50 Procedures for Collection

- a) Genetic Marker Indexing Kits shall be provided as needed by the Department to the designated agencies. The designated agencies shall order Genetic Marker Indexing Kits from a vendor specified by the Department. The kits shall be supplied and shipped at no cost to the designated agency. Each kit shall contain, but not be limited to, a receipt form, an instruction sheet, and containers for sample collections.
- b) The collection site shall be any location chosen by the designated agency for sample collection.
- c) The offender shall be positively identified and his/her eligibility ensured under the statute before the samples are collected.
- d) The samples shall be collected by qualified personnel as described in Section 5-4-3(d) and Section 5-4-3(d-1) of the Act.
- e) The Department shall designate which one or more sample types (blood, saliva, or tissue) are acceptable for submission.

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- f) The receipt form, including the fingerprint of the qualifying offender, shall be completed by the designated agency at the time of sample collection.
- g) The completed kit shall be delivered or sent to the Department address indicated in the kit instructions.
- h) In the event a sample is lost or destroyed or otherwise found inadequate for analysis purposes, the designated agency and the offender are obligated to produce a substitution sample.
- i) Alternative collection procedures may be requested by a designated agency and may be utilized if the proposed procedures ensure the quality of the sample and the reliability of the identification and are approved in writing by the Department Director or designee.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1285.60 Privacy Protection

- a) Except as provided in subsection (b) of this Section, the results of the genetic marker grouping analysis shall be disclosed only:
 - 1) To criminal justice agencies for law enforcement identification purposes;
 - 2) To a defendant, his/her own genetic marker grouping results, for criminal defense purposes in response to valid subpoenas or other court orders;
 - 3) To law enforcement agencies for investigation of missing persons; or
 - 4) As otherwise required by law.
- b) In addition, the Illinois State Police may use test results for a population statistics database or for other research or quality control purposes if personally identifying information is removed.
- c) Direct electronic access to genetic marker grouping analysis data may be utilized when available for the purposes of disclosure as allowed in subsection (a) of this Section.

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(Source: Amended at 31 Ill. Re g. _____, effective _____)

Section 1285.70 Expungement of Records

In the event the disposition or conviction upon which a sample collection was based has been reversed based on actual innocence or that a pardon has been granted based on actual innocence, the genetic marker grouping will be removed from the local, State, and national offender databases after receipt of a final court order requiring expungement. The sample receipt containing personal identifiable information will be destroyed; computerized sample records will be deleted; the sample will be destroyed in a biologically safe manner; and a letter will be sent to the court verifying the expungement is completed. With respect to electronic and other means of record keeping for which an index or pointer system is necessary to locate a record, deletion of the index entry or pointer is equivalent to deletion of the record.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1285.80 Non-participation

- a) Results of genetic marker grouping analysis and access to the State genetic marker database information may be denied to any agency which fails to comply with this Part~~these Rules~~.
- b) ~~Direct access~~Access to the State genetic marker database shall only be granted to forensic DNA laboratories in Illinois that are current NDIS participants~~be denied to those forensic laboratories that do not comply with the FBI's requirements for DNA indexing entitled "CODIS Standards for Acceptance of DNA Data at NDIS"; FBI Laboratory Division, Forensic Science System Unit, 935 Pennsylvania Avenue N.W., Room GRB 3R, Washington D.C. 20535 (November 1996). This incorporation by reference contains no further editions or amendments.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Rates to be Charged by Official Testing Stations
- 2) Code Citation: 92 Ill. Adm. Code 439
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
439.10	New Section
439.20	New Section
439.30	New Section
439.40	New Section
439.100	New Section
439.110	New Section
439.200	New Section
439.210	New Section
439.220	New Section
439.230	New Section
439.240	New Section
439.250	New Section
439.300	New Section
439.310	New Section
439.320	New Section
439.330	New Section
439.400	New Section
439.410	New Section
439.420	New Section
439.430	New Section
439.440	New Section
439.450	New Section
439.460	New Section
439.470	New Section
439.480	New Section
- 4) Statutory Authority: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25]
- 5) A complete description of the subjects and issues involved: By this Notice, the Department, through its Division of Traffic Safety (the Division), is proposing a new Part

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that prescribes the requirements that govern rates to be charged by Official Testing Stations for safety tests of vehicles as required by Sections 6-410 and 13-101 of the Illinois Vehicle Code (the Code) [625 ILCS 5/6-410 and 13-101] while simultaneously proposing to repeal the current rules covering the same subject matter (see 92 Ill. Adm. Code 446 and 454). The notices and text of the two repealed Parts appear elsewhere in this issue of the *Illinois Register*.

The new Part will consolidate, clarify and streamline the rate procedures for operators of Illinois Official Testing Stations. Among the significant changes between the new Part 439 and the repealed Parts:

Currently, Parts 446 and 454 provide that any proposed rate change in excess of the charges or rates specified in the schedules of rates found at Sections 446.402 and 454.310 will be disapproved. Since disapproved rates cannot be enforced by an operator, these Parts provide that an operator must then file a written petition with the Division requesting a hearing seeking approval of the proposed rate change. The hearing process is a lengthy, costly, and time-consuming process for both the operator and the Division; both Parts require that a hearing officer and a court reporter be present at a rate hearing. The cost to the Division for services performed by the hearing officer and the court reporter are, on average, \$1000 per hearing. The hearing officer's decision can take months to render thus further delaying the ability of the operator to implement and enforce a new rate. This process is unduly burdensome on the operator and on the Division. Therefore, the Division has determined that the use of a formula on a case by case basis to determine a just and reasonable rate that is based on hourly shop rates in the community is more appropriate than the prima facie schedules provided under the current rules. A prima facie schedule of rates puts the operator and the Division in the same situation that currently exists concerning the necessity of a hearing when a requested change is in excess of the amounts in the schedule. In the new rule, the Division will utilize the formula to determine, at the time the rate change request is made by the operator, if the rates are just and reasonable. "Just and reasonable" is defined, in keeping with the statute, as a rate or charge that is the same, or nearly the same, as the prevailing rate or charge for the same or similar tests made in the community where the Station is located. (See Section 13-106 of the Code.) The Division has determined that using a formula in the rule in lieu of a schedule is in the best interest of the operators and the Division because the expense of a hearing will not be required unless the operator makes a request after notification from the Division that the proposed rate change is disapproved, as determined by the formula.

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Therefore, by this rulemaking, the Department is proposing to streamline the regulations to make the process of obtaining approval of proposed rates or rate changes easier on Official Testing Station operators. Upon adoption of this proposed rulemaking, the operator will make application to the Division for approval of a rate change and the Division will then apply the formula and notify the operator regarding its determination to approve or disapprove within 15 calendar days. No hearing will be necessary unless the Division disapproves the proposed rate change and the operator wishes to contest the finding.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

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DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate Official Testing Stations.
- B) Reporting, bookkeeping or other procedures required for compliance: Operators of Official Testing Stations will be required to submit a Schedule of Proposed Rates before they are issued a Station Permit. Operators will also be required to submit an Application for a Rate Change if they desire to change the rates to be charged for a safety test.
- C) Types of professional skills necessary for compliance: No new or additional skills are required for compliance with this rulemaking.

14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

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NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 439

RATES TO BE CHARGED BY OFFICIAL TESTING STATIONS

SUBPART A: GENERAL REQUIREMENTS

Section

- 439.10 Scope and Applicability
- 439.20 Address for Correspondence and Requests for Forms
- 439.30 Definitions
- 439.40 Rates

SUBPART B: DOCUMENT SPECIFICATIONS

Section

- 439.100 Filing of Documentation
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SUBPART C: APPLICATION REQUIREMENTS

Section

- 439.200 Application for an Official Testing Station Permit and a Schedule of Vehicle Inspection Rates
- 439.210 Rate Change Application
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SUBPART D: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section

- 439.300 Complaints
- 439.310 Notice to Station Operator of Allegation of Unjust Rates
- 439.320 Operator's Response to Notice
- 439.330 Request for Hearing

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SUBPART E: HEARINGS AND APPEALS TO THE SECRETARY

Section	
439.400	Enforcement
439.410	Notice of Hearing and Location of Hearing
439.420	Appearances
439.430	Hearings
439.440	Discovery
439.450	Motions
439.460	Intervention
439.470	Hearing Officer's Decision
439.480	Appeal to the Secretary

AUTHORITY: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25].

SOURCE: Adopted at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

Section 439.10 Scope and Applicability

- a) This Part prescribes the requirements of the Illinois Department of Transportation, Division of Traffic Safety (the Division), governing the rates to be charged by an Official Testing Station (Station) for safety tests of vehicles as required by Sections 6-410 and 13-101 of the Illinois Vehicle Code (the Code) [625 ILCS 5/6-410 and 13-101]. This Part also prescribes the practices and procedures that govern all hearings conducted by the Division relating to proposed rates that are disapproved by the Division, in whole or in part, or, upon complaint of any person alleging unjust charges by a Station. (See Section 13-106 of the Code.)
- b) This Part applies to operators of Official Testing Stations who conduct safety tests of vehicles required by Sections 6-410 and 13-101 of the Code.

Section 439.20 Address for Correspondence and Requests for Forms

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Correspondence pertaining to this Part and requests for Division forms shall be submitted to:

Manager, Vehicle Inspection Unit
Division of Traffic Safety
Illinois Department of Transportation
3215 Executive Park Drive, P.O. Box 19212
Springfield, Illinois 62794-9212

Phone: (217)785-1181

Fax: (217)558-2236

Section 439.30 Definitions

As used in this Part:

"Applicant" - means an operator of an Official Testing Station making application with the Division for an Official Testing Station permit in compliance with 92 Ill. Adm. Code 451, Administrative Requirements for Official Testing Stations, and, as part of that application, for approval of a proposed schedule of rates for safety tests conducted on vehicles as required by Sections 6-410 and 13-101 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-101].

"Certificate of Safety" - means the sticker furnished by the Division to an Official Testing Station that is to be directly affixed by a Certified Safety Tester (CST) to a vehicle that passes a safety test.

"Certified Safety Tester" or "CST" - means an individual who has passed a written exam demonstrating proficiency in the operation of authorized safety test equipment and who has been issued evidence and authority of such by the Division.

"Code" - means the Illinois Vehicle Code [625 ILCS 5].

"Department" - means the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents.
(Section 1-115.05 of the Code)

"Director" - means the Director of the Division of Traffic Safety.

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"Division" - means the Illinois Department of Transportation, Division of Traffic Safety.

"Hearing Officer" – means the Secretary of Transportation or an attorney, licensed to practice law in this State, that has been appointed by the Secretary to conduct all formal proceedings covered by this Part.

"Just and Reasonable" - means a rate or charge that is the same, or nearly the same, as the prevailing rate or charge for the same or similar tests made in the community where the Station is located. (See Section 13-106 of the Code.)

"Leave to Intervene" – means permission to participate in or become a party to an action that has already been filed.

"Motion" – means an application to the hearing officer requesting an order or ruling.

"Official Testing Station" or "Station" - means all contiguous real and personal property that houses the testing lane or lanes and all of the equipment and supplies relating to vehicle safety testing.

"Operator" - means the owner of an Official Testing Station or any individual, partner, authorized agent of a corporation, lessee, or other person in whose name an Official Testing Station Permit has been issued. An operator is the person or persons responsible for the lawful operation of the Station's safety test program.

"Order" – means a direction of the hearing officer on a matter incidental to the hearing that directs some step in the proceeding or pronounces some judgment based on the evidence presented.

"Person" - means every natural person, firm, copartnership, association or corporation. (Section 1-159 of the Code)

"Petitioner" – means a person who presents a petition to the hearing officer.

"Rate" - means the just and reasonable monetary charge approved by the Division and imposed by the Station on any person who submits a vehicle to the Station for a safety test as required by Section 6-410 or 13-101 of the Code.

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"Safety Test" - means the test required by Section 6-410 or 13-101 of the Code. A safety test consists of an inspection of the mechanical components of a vehicle. Examples of mechanical components include, but are not limited to, a vehicle's brakes, tires and lighting, exhaust and fuel systems.

"Secretary" - means the Secretary of the Illinois Department of Transportation.

Section 439.40 Rates

- a) No Station permit will be issued pursuant to 92 Ill. Adm. Code 451, Administrative Requirements for Official Testing Stations, unless the applicant has filed, in accordance with this Part, a Proposed Schedule of Vehicle Inspection Rates that has been approved by the Division.
- b) No operator of a Station shall make, establish, implement, collect or otherwise enforce any rate or schedule of rates for performing a safety test unless that rate or schedule of rates has been made or established in accordance with this Part.
- c) Any and all rates made by an operator shall be just and reasonable, as defined in Section 439.30. Rates that are just and reasonable will compensate a Station at a rate that is equal to or nearly equal to the rate the Station is compensated for performing repairs, also known as the shop rate. When a Station does not have a shop rate, the average shop rate of two repair businesses in the same county or adjacent counties shall be provided and used by the Division to determine rates that are just and reasonable.
- d) All information provided by the applicant will be used by the Division to determine, by formula (see Section 439.230), if the rate will be approved in whole or in part.
- e) No operator of a Station shall charge more or less for a safety test than the rates filed with and approved by the Division. (See Section 13-106 of the Code.)
- f) No operator of a Station shall change any rate or schedule of rates unless that change has been made in accordance with this Part.

SUBPART B: DOCUMENT SPECIFICATIONS

Section 439.100 Filing of Documentation

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- a) Documentation shall be filed with the Division at the address noted in Section 439.20 and shall clearly designate the docket number, if any, and the short title of any proceeding to and about which the documentation is directed. The person communicating shall also include his/her name and address and the party he/she represents when filing documents with the Division. Except as otherwise provided in this Part, originals of all documents, including complaints, motions, petitions and notices of appeal, shall be filed with the Division.
- b) All documents filed under this Part must be sent within the prescribed time limits, if any, for such filings. The date of receipt by the Division and not the date of deposit in the mail is determinative concerning a filing date; provided, however, that if a document is mailed by certified, registered, or express mail and postmarked at least two calendar days prior to the due date, it will be accepted as timely filed regardless of the date of receipt by the Division.
- c) When, upon inspection by the Division, the Division is of the opinion that a document submitted for filing does not comply with this Part, the Division may decline to accept that document for filing. In that case, the Division will advise the person whose name and address are listed on the documentation of the deficiencies in the documentation and require that those deficiencies be corrected prior to filing.

Section 439.110 Service

- a) Each order, notice, or other document required to be served under this Part shall be served personally or by any mail service that provides proof of service.
- b) Service upon a person's authorized representative constitutes service upon that person.

SUBPART C: APPLICATION REQUIREMENTS

Section 439.200 Application for an Official Testing Station Permit and a Schedule of Vehicle Inspection Rates

- a) Forms mentioned in this Subpart C can be obtained from the Division at the address noted in Section 439.20.

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- b) The applicant must submit a completed Application for an Official Testing Station Permit form, pursuant to 92 Ill. Adm. Code 451, and attach a completed Proposed Schedule of Vehicle Inspection Rates form to the permit application for consideration by the Division. An additional form titled Shop Rate and Employee Wages must also be completed by the applicant as an attachment to and as a part of the proposed schedule of rates form (see subsection (d) of this Section).
- c) The proposed schedule of rates, which shall be just and reasonable as defined in Section 439.30, shall include the axle rates to be charged for a safety test, per single and dual axle, and, if appropriate, the school bus rate to be charged for a safety test. The applicant shall also include the amount considered to be reimbursement to the operator for the purchase of a Certificate of Safety from the Division as required by Section 13-106 of the Code. Reimbursement shall not exceed the fee paid by the operator to the Division for a Certificate of Safety.
- d) The applicant shall provide the Station's hourly shop rate for repair services and the names and hourly wages of all mechanics and CSTs employed at the Station on the Shop Rate and Employee Wages form. When a Station has no hourly shop rate, the applicant shall provide the hourly shop rates, names, addresses, and telephone numbers of two vehicle repair businesses in the same county or adjacent counties on the Shop Rate and Employee Wages form.

Section 439.210 Rate Change Application

- a) Any operator of a Station who desires to change his/her Station's schedule of rates shall file a completed Application for a Rate Change form with the Division at the address noted in Section 439.20. All rate changes must be approved by the Division prior to implementation, collection or enforcement of the changes by the Station operator.
- b) A rate change application can be submitted to the Division by mailing, faxing or delivering the completed application to the Division at the address noted in Section 439.20. A rate change application may not be filed more than once every 18 months.

Section 439.220 Initial Review of an Application

The Division will perform an initial review of an application to determine whether it is complete and in conformance with this Part. The Division will make this determination within 15 calendar

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days after receipt of the application. If the Division does not return the application to the applicant by the end of the 15 calendar day period, the application will be processed as prescribed in Section 439.230. If the application is returned to the applicant within the 15 calendar day period, the Division will include written information concerning deficiencies in the application that must be addressed before the applicant resubmits the application for consideration.

Section 439.230 Review of an Application

- a) After an initial review determines the application to be complete, the Division will use the information on the proposed schedule of rates form to determine, by formula, if the proposed rates will be approved, in whole or in part. No public hearing, argument, or other formal proceeding will be held prior to the review and determination to approve or disapprove an application filed under Section 439.200.
- b) The formula is used to change the total amount of revenue generated from vehicle safety inspections into a figure directly comparable to the shop rate charged by vehicle repair businesses. When the Station does not perform vehicle repairs, the Division will use the average shop rate of two repair businesses in the same county, or adjacent counties, to determine rates that are just and reasonable as follows:
 - 1) The hourly shop rate (HSR) divided by the average hourly wage for a journeyman mechanic (AHWJM) is defined as the shop ratio (SR). The existing or new single or dual axle rate (SAR or DAR) is divided by 2 (see X below). The product, X, is then multiplied by 12.50 to determine the hourly revenue generated from a vehicle inspection (HRGVI). The hourly revenue generated from a vehicle inspection is then divided by the average hourly wage a Station compensates a certified safety tester (CSTAHW) to determine the fee ratio (FR). The shop ratio divided by the fee ratio is defined as the factor of adjustment (FOA).

$$\text{HSR} \div \text{AHWJM} = \text{SR}$$

$$\text{SAR or DAR} \div 2 = \text{X}$$

$$\text{X} \times 12.50 = \text{HRGVI}$$

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$$\text{HRGVI} \div \text{CSTAHW} = \text{FR}$$

$$\text{SR} \div \text{FR} = \text{FOA}$$

- 2) The factor of adjustment is multiplied by the current single and/or dual wheel axle rates to determine if the Division will approve the requested increased rate for an established Station. The Division will approve the increased rate when the factor of adjustment multiplied by the current single and/or the dual axle rate is greater than or equal to the requested new rate. The Division will not approve the requested increased rate if the factor of adjustment multiplied by the current rate is lower than the requested new rate. If the Division does not approve the requested rate, the Division will approve the product of the current rate multiplied by the factor of adjustment, provided the product is higher than the current rate.
- A) The Division will approve the requested increased rate if:
- $\text{FOA} \times \text{Current Single Axle Rate} \geq \text{Requested Increased Rate}$; or
- $\text{FOA} \times \text{Current Dual Axle Rate} \geq \text{Requested Increased Rate}$.
- B) The Division will not approve the requested increased rate if:
- $\text{FOA} \times \text{Current Single Axle Rate} < \text{Requested Increased Rate}$; or
- $\text{FOA} \times \text{Current Dual Axle Rate} < \text{Requested Increased Rate}$.
- 3) For a new Station that does not have a current rate, the factor of adjustment is multiplied by the average current rate of the two nearest Stations to determine if the Division will approve the requested rate for a new Station. The Division will approve the new rate when the factor of adjustment multiplied by the average current rate of the two nearest Stations is greater than or equal to the requested new rate. The Division will not approve the new rate if the factor of adjustment multiplied by the average current rate of the two nearest Stations is lower than the requested new rate. If the Division does not approve the new rate, the Division will approve the product of the average current rate of the two nearest Stations multiplied by the factor of adjustment as the new rate.

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- A) The Division will approve the requested new rate if:

FOA \times Average Current Single Axle Rate of Two Nearest Stations \geq Requested New Rate; or

FOA \times Average Current Dual Axle Rate of Two Nearest Stations \geq Requested New Rate.

- B) The Division will not approve the requested new rate if:

FOA \times Average Current Single Axle Rate of Two Nearest Stations $<$ Requested New Rate; or

FOA \times Average Current Dual Axle Rate of Two Nearest Stations $<$ Requested New Rate.

- 4) To determine a new school bus Station's rate or to determine if an established school bus Station can increase the rate it currently charges for a school bus inspection, the average hourly wage a Station compensates a certified safety tester (CSTAHW) is divided by the average hourly wage for a journeyman mechanic (JMAHW). That number (A) is then multiplied by the hourly shop rate (HSR). The product (B) is then multiplied by .75 to determine if the rate compensates the Station at an amount equal to or nearly equal to 75% of the hourly shop rate that the Station (or a vehicle repair business in the community) earns for repairing a vehicle. If the requested rate is equal to or less than that number (i.e., X), the Division will approve the requested rate. If the requested rate is greater than that number (i.e., X), the Division will not approve the requested rate.

$$\text{CSTAHW} \div \text{JMAHW} = \text{A}$$

$$\text{A} \times \text{HSR} = \text{B}$$

$$\text{B} \times .75 = \text{X}$$

- c) If the Division determines that the proposed schedule of rates is just and reasonable, and the permit application is approved pursuant to 92 Ill. Adm. Code

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451, the Division will notify the applicant in writing within 15 calendar days after receipt of the application.

- d) Any and all rates approved by the Division must be posted at the Station prior to the operator implementing, collecting or otherwise enforcing any and all rates.
- e) If the Division determines that the proposed schedule of rates is not just and reasonable, it will disapprove the application, in whole or in part, and provide written notification to the applicant of the decision to disapprove, along with the reasons for the disapproval, within 15 calendar days after receipt of the application.
- f) When the Division disapproves a proposed schedule of rates, in whole or in part, the applicant may file a written appeal in accordance with Section 439.250.

Section 439.240 Withdrawal of an Application

- a) An applicant may withdraw an application by contacting the Division any time prior to the final determination of approval or disapproval of a schedule of proposed rates by the Division.
- b) Withdrawal of an application does not authorize the applicant to remove any related records from the docket or files of the Division.

Section 439.250 Appeal to the Director and Petition for Hearing

- a) When a proposed schedule of rates or a proposed change in rates is disapproved in whole or in part by the Division, an applicant may appeal the determination by filing with the Director, within 15 calendar days after the applicant receives written notice of the determination, a written petition for a hearing seeking approval of the proposed schedule of rates or of the proposed change in rates.
- b) The petition must:
 - 1) state the name and address of the Official Testing Station and of the petitioner;
 - 2) include a statement as to the ownership of the Station, along with the owner's starting date;

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- 3) include a statement setting forth the proposed schedule of rates or the current rates being charged by the Station operator;
 - 4) include a detailed statement setting forth the reasons why the Station operator seeks approval of the proposed schedule of rates or seeks to change the rates currently being charged;
 - 5) include, if appealing the disapproval of the proposed change in rates, a statement of the new rates for which the petitioner seeks approval; and
 - 6) state or include any other matters upon which the petitioner bases his/her request for a hearing.
- c) All hearings shall be conducted in accordance with Subpart E of this Part.

SUBPART D: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 439.300 Complaints

- a) Whenever any person intends to complain to the Division about the justness or reasonableness of any rate filed by any operator with the Division, that person shall submit the complaint in writing to the address provided in Section 439.20.
- b) Each complaint shall include:
 - 1) the name, address and telephone number of the person making the complaint;
 - 2) a statement as to whether the person making the complaint owns or operates a Station and, if applicable, the name, business address and telephone number of his/her Station;
 - 3) the name and, if known, the business address of the operator against whom the person is complaining;
 - 4) a description or statement of the rate or rates about which the person is complaining;

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- 5) a statement setting forth in detail the specific facts and reasons why the person making the complaint believes the rate or rates are unjust or unreasonable; and
 - 6) any information, document or other matter upon which the person making the complaint is relying.
- c) The facts asserted in any complaint must be sworn to by the person or persons having knowledge of those facts. Except under unusual circumstances, the person or persons having knowledge of the facts shall be available to appear as witnesses at a hearing convened by the Division to substantiate the facts asserted in the complaint, should a hearing be necessary.
 - d) An original of the notarized complaint must be filed with the Division. The original shall show the signature, capacity, and impression seal, if any, of the notary, as well as the date the complaint was notarized.

Section 439.310 Notice to Station Operator of Allegation of Unjust Rates

- a) Whenever the Division, upon its own initiative, or upon notarized complaint of any person, intends to convene a hearing for the purpose of requiring the operator of a Station to prove that the rates filed by that operator are just and reasonable, the proceeding begins with the Division serving a Notice on the operator.
- b) The Notice required by subsection (a) of this Section will include:
 - 1) a statement of the provision or provisions of the law and regulations that the operator is believed to be violating;
 - 2) a statement of the factual allegation or allegations upon which the Division relies in its belief that the rates filed by the operator are unjust or unreasonable;
 - 3) a statement of the remedial action being sought by the Division;
 - 4) a statement of the operator's right to present written or oral explanations, information or any materials in answer to the allegation; and

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- 5) a statement of the operator's right to request a hearing and the procedures for requesting a hearing.
- c) The Division may amend a notice issued under this Section any time prior to the entering of a final order. If an amendment includes any new material allegation of fact, the operator shall be given an opportunity to respond to the Division in writing within 30 calendar days after receipt of the amended notice.

Section 439.320 Operator's Response to Notice

- a) Within 30 calendar days after service of a notice issued under Section 439.310, the operator may:
 - 1) file with the Division a statement consenting to withdraw the contested rate or rates and declaring that the operator will not charge the contested rate or rates for the matters covered by those rates until the operator files and receives Division approval to enforce any and all new rates, thereby closing the case; or
 - 2) request a hearing as provided in Section 439.330.
- b) Failure of the operator to reply by taking one of the two actions described in subsection (a) of this Section within the 30 calendar day time period constitutes a waiver of the operator's right to appear and contest the allegations and authorizes the Director, without further notice to the operator, to find the facts to be as alleged in the notice and to order the rate in question to be invalid.

Section 439.330 Request for Hearing

- a) If an operator elects to request a hearing, the operator shall submit a written petition to the Director. The petition must:
 - 1) state the name and address of the operator and of the person signing the request, if different from the operator;
 - 2) include a notarized statement with respect to whether each allegation is admitted or denied; and
 - 3) state in detail the issues to be raised by the operator at the hearing.

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- b) After a petition for a hearing is received, if it complies with subsection (a), the Director will schedule a hearing for the earliest possible date. The Division will notify the operator in writing, within 30 calendar days after receipt of the request for hearing of the date, time and location of the hearing. (See Section 439.410(a) for location information.)

SUBPART E: HEARINGS AND APPEALS TO THE SECRETARY

Section 439.400 Enforcement

Upon complaint of any person, the Division may, in its discretion, require an operator to appear at a hearing to prove that a rate or schedule of rates filed with the Division is just and reasonable.

Section 439.410 Notice of Hearing and Location of Hearing

- a) After a petition for a hearing is received, the Director will schedule a hearing for the earliest possible date. The Division will notify the operator, and complainant when applicable, in writing, within 30 calendar days after receipt of the petition, of the date, time, and location of the hearing. Hearings on petitions filed under this Part will be held at the offices of the Division at 201 West Center Court, Schaumburg, Illinois 60196-3169; 2801 West Murphysboro Road, Carbondale, Illinois 62901-1059; or 3215 Executive Park Drive, Springfield, Illinois 62764. The Division will determine the location of the hearing based on the geographical proximity of the Station requesting the hearing and based on the available resources of the Division.
- b) The Director may grant an extension of time for up to 30 calendar days for the commencement of a hearing, upon written request of the operator or of the Division's Vehicle Inspection Unit.

Section 439.420 Appearances

Any person participating in a hearing conducted in accordance with this Part may appear as follows:

- a) A person may appear on his/her own behalf or may be represented by counsel.

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- b) A business, non-profit or governmental organization may appear by an officer, authorized employee or representative, or may be represented by counsel, provided the authorized employee or representative presents a letter to the Division, on company letterhead, signed by an owner or officer of the business, authorizing the person's appearance.
- c) Any attorney appearing in a representative capacity shall file a written notice of appearance.

Section 439.430 Hearings

- a) When a hearing is scheduled under Section 439.410, a hearing officer designated by the Director will convene and preside over the hearing. Testimony by witnesses shall be given under oath and the hearing shall be recorded.
- b) The hearing officer may:
 - 1) administer oaths and affirmations;
 - 2) adopt procedures for the submission of evidence in written form;
 - 3) rule on offers of proof and receive relevant evidence;
 - 4) examine witnesses at the hearing;
 - 5) convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;
 - 6) hold conferences for settlement, simplification of the issues, or any other proper purpose; and
 - 7) take any other action authorized by or consistent with the provisions of this Part and permitted by law that may expedite the hearing or aid in the disposition of an issue raised during the hearing.
- c) The petitioner has the burden of proving the facts alleged in the petition, including proof that the disapproved rate or rates are just and reasonable.

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- d) The petitioner may offer relevant information and testimony necessary to fully inform the hearing officer as to the matter concerned and may conduct cross-examination required for a full disclosure of the facts.

Section 439.440 Discovery

Upon motion for discovery of any party, the hearing officer may direct any other party to produce for inspection, copying, reproduction or photocopying written documents relevant to the subject matter of the hearing. The motion for discovery shall be in writing and served on the party from whom production of documents is sought. The motion for discovery shall specify a reasonable time, place and manner of making the inspection and copying. A motion for discovery that is excessive, unduly burdensome, or not sufficiently related to the subject matter of the hearing (see Section 439.430(b)), may be denied in whole or in part.

Section 439.450 Motions

- a) Applications to the hearing officer shall be in the form of a motion.
- b) Motions shall be in writing, shall detail the grounds of the motion, and shall set forth the relief or order sought. Subpart B of this Part shall apply to all motions.

Section 439.460 Intervention

- a) Any person may intervene in a proceeding involving a petition for approval of a rate change or in a proceeding involving a complaint of unreasonable or unjust rates by filing a motion for leave to intervene with the hearing officer.
- b) A motion for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether the petitioner's position is in support of or opposition to the relief sought.
- c) A motion for leave to intervene in any proceeding shall be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.
- d) When filed at a hearing, copies of a motion for leave to intervene must be provided for distribution to the parties represented at the hearing. When a motion for leave to intervene is not filed at the hearing, the original copy of the motion shall be submitted to the Division, together with a certificate of service in

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accordance with Section 439.110. The hearing officer shall allow any party opposing the motion to intervene an opportunity, not to exceed 15 calendar days, to respond to the motion.

- e) Leave will not be granted except on pleadings alleging facts reasonably pertinent to the issues already presented and that do not unduly broaden them. If leave is granted, the movant thereby becomes an intervener and a party to the proceeding.

Section 439.470 Hearing Officer's Decision

After consideration of the evidence of record, the hearing officer may deny the petition in whole or in part and enter an order to that effect. If the hearing officer does not deny the petition in whole, the hearing officer will issue and serve on all parties an order approving the rates or change in rates determined by the hearing officer to be just and reasonable. The order will include a statement of findings and conclusions, as well as the reasons for those findings and conclusions, on all material issues of fact, law, and discretion. The order will be issued and served no later than 45 calendar days after the hearing.

Section 439.480 Appeal to the Secretary

A party, aggrieved by a hearing officer's decision, may file a written appeal with the Secretary within 15 calendar days after service of the order. The appeal shall be as prescribed in Section 439.250(b) of this Part. A decision by the Secretary is administratively final.

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- 1) Heading of the Part: Minimum Safety Standards for Construction of Type II School Buses
- 2) Code Citation: 92 Ill. Adm. Code 442
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
442.130	Amend
442.208	New Section
442.218	Amend
442.230	Amend
442.245	Amend
442.250	Amend
442.258	Amend
442.265	Amend
442.280	Repeal
442.285	Amend
442.455	Amend
442.465	Amend
442.605	Amend
442.615	Amend
442.620	Amend
442.715	Amend
- 4) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Article VIII]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend this Part pursuant to 625 ILCS 5/12-815.2 that requires school buses manufactured on or after January 1, 2006 to be equipped with a noise suppression switch capable of turning off noise producing accessories. Those accessories include, but are not limited to, heater blowers, defroster fans, auxiliary fans and radios. The requirements for the noise suppression switch are being added at Section 442.620(e), Wiring.

Throughout this rulemaking, the Department is correcting statutory citations to the Illinois Vehicle Code. The Department is also updating and correcting references to the Society of Automotive Engineers (SAE) Standards and Recommended Practices pursuant to the most recent standard dates provided in the 2005 edition of SAE Standards and Recommended Practices.

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At Section 442.130, the Department is proposing to amend the incorporation by reference and certification language to include the 2006 edition of the Federal Motor Vehicle Safety Standards (FMVSS), located at 49 CFR 571.1 through 571.404, and the federal standards governing certification of vehicles, located at 49 CFR 567. Section 442.130 also incorporates by reference the 2005 edition of the SAE Standards and Recommended Practices.

The Department is also proposing to update, clarify, and correct standards throughout this Part. The following summarizes the standards that are being updated by this rulemaking:

At Subpart B: Construction of Body

Barriers, Guard – The Department is adding new provisions at Section 442.208 concerning guard barriers. The Department currently requires that Type II school buses be equipped with either a stanchion panel or a guard barrier in front of the right front passenger seat but not in front of the left front passenger seat. A stanchion panel or guard barrier was designed to guard against passengers being thrown into the stairwell or the dash of the school bus during a sudden stop or crash. However, the FMVSS does not require guard barriers on Type II school buses in front of unprotected seating positions (i.e., seats not protected by another seatback in front) but instead requires that Type II school buses be equipped with a safety belt at each seating position. Although safety belts are required on Type II school buses, students do not always use them. Moreover, the stanchion panel is an antiquated component and is no longer a viable option for industry. Therefore, the Department is proposing to require a guard barrier in front of both the right and left front unprotected passenger seats in Type II school buses. This is consistent with an FMVSS requirement for Type I school buses. Since the Department believes the left front passenger seat is not adequately protected by the driver's seat, passengers in the left front seating position will, upon adoption of this rulemaking, be provided the same protection as those in the right front passenger seat.

Emergency Exits and Door Alarms – The Department is adding an exception at Section 442.230(b)(1) to allow yellow retroreflective tape to be located on a rear bumper or rub rail.

Heaters – The Department is adding a new subsection at Section 442.245(c) to provide standards for auxiliary fuel-fired heating systems.

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Identification/Lettering – The Department is amending a requirement at Section 442.250(a) that prohibits all signs, numbers or lettering not required by statute or permitted by this Part from being displayed on either the exterior or the interior of the bus. Currently, signs, numbers or lettering that are not required or permitted are allowed on the interior of the bus provided they are not visible from the exterior of the bus. The Department is also adding an optional provision at Section 442.250(c) that allows vehicle identification numbers to be located on the rooftop of a school bus.

Paint/Color Requirements – The Department is amending language at Section 442.258(i) to clarify the requirements for yellow retroreflective tape that can be located on a rear bumper or rub rail.

Seat Belts, Driver's and Passengers' – The Department is updating terminology at Section 442.265(c) by replacing an automatic locking type retractor with an emergency locking type retractor.

Stanchion Guard Panel or Barrier Guard – The Department is repealing Section 442.280, Stanchion Guard Panel or Barrier Guard, and replacing it with new provisions at Section 442.208, Barriers, Guard. The Department is updating this standard and renaming it. (See explanation at "Barriers, Guard.")

Stop Signal Arm Panel – The Department is deleting language at Section 442.285(a) that allows stop signal arm panels to be operated manually. Newly manufactured buses are always equipped with mechanically-operated stop signal arm panels. Manually-operated panels are no longer offered by school bus manufacturers. The Department is deleting subsection (b) of this Section that requires the panel to be 16-gauge metal that conflicts with the incorporated federal standard that does not require 16-gauge metal or its equivalent.

At Subpart C: Chassis Requirements

Horn – The Department is adding a reference at Section 442.455 to the applicable SAE Standard.

Instruments – At Section 442.465, the Department is replacing "ammeter" with the correct term "ampere meter" and adding "volt meter" as synonymous with "ampere meter."

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At Subpart D: Electrical System Requirements

Battery and Battery Compartment – The Department is adding a new subsection at Section 442.605(b) that establishes the same standards for a battery compartment that are currently in effect for Type I school buses (92 Ill. Adm. Code 440). The new subsection requires the battery compartment to be closed, to be weather-tight, and to be vented. Wiring standards must also be met.

Lamps, Reflectors, and Signals – The Department is adding language at Section 442.615(a) concerning Light Emitting Diodes (LED) lights that meet either FMVSS or SAE Standards and Recommended Practices - these are acceptable equipment on school buses manufactured for use in Illinois.

Interior Lighting and Side Turn Signals – The Department is clarifying and adding language at Sections 442.615(c) and (e) regarding the requirement that buses designed to transport 33 or more passengers be equipped with two interior lamps and side turn signals on both exterior sides of the bus.

Wiring – The Department is adding a requirement at Section 442.620(e) for a noise suppression switch pursuant to 625 ILCS 5/12-815.2.

At Subpart E: Equipment Requirements

Warning Devices – The Department is updating the Section heading at Section 442.715 and correcting language to clarify provisions regarding emergency warning devices pursuant to 625 ILCS 5/12-702 (a) and (c).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

Ms Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: The Department is not aware of any small businesses that manufacture school buses; therefore, no impact is anticipated.
 - B) Reporting, bookkeeping or other procedures required for compliance:
None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 442

MINIMUM SAFETY STANDARDS FOR CONSTRUCTION OF
TYPE II SCHOOL BUSES

SUBPART A: GENERAL

Section

442.110	Scope
442.120	Definitions
442.130	Incorporation by Reference and Certification

SUBPART B: CONSTRUCTION OF BODY

Section

442.205	Aisle
442.208	Barriers, Guard
442.210	Body Structure and Mounting
442.213	Bumper, Rear
442.214	Capacity, Passenger
442.215	Ceiling and Side Walls
442.218	Crossing Control Arm
442.220	Defrosters
442.225	Doors (Repealed)
442.230	Emergency Exits and Door Alarms
442.235	Floor Covering
442.240	Glazing Materials
442.245	Heaters Heater
442.250	Identification/Lettering
442.253	Metal Treatment
442.255	Mirrors
442.258	Paint/Color Requirements
442.259	Rack, Book/Luggage
442.260	Rub Rails
442.265	Seat Belts, Driver's and Passengers'
442.270	Seating

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442.275	Service Entrance and Door
442.280	Stanchion Guard Panel or Barrier Guard (Repealed)
442.285	Stop Signal Arm Panel
442.290	Tool Compartment (Purchaser's Option)
442.295	Sun Visor
442.300	Undercoating
442.305	Ventilation
442.310	Window Openings
442.315	Windshield
442.320	Windshield Wipers
442.325	Windshield Washer

SUBPART C: CHASSIS REQUIREMENTS

Section	
442.405	Air Cleaner
442.410	Axles
442.415	Brakes
442.420	Bumper, Front
442.425	Drive Shaft Guard
442.430	Engine
442.435	Exhaust System and Muffler
442.440	Frame
442.445	Fuel Tank
442.450	Heater Connections
442.455	Horn
442.460	Ignition Lock
442.465	Instruments
442.470	Oil Filter
442.475	Shock Absorbers
442.480	Springs and Suspension
442.485	Steering Mechanism
442.490	Tires and Wheels
442.495	Transmissions

SUBPART D: ELECTRICAL SYSTEMS REQUIREMENTS

Section	
442.605	Battery and Battery Compartment

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442.610	Generator or Alternator
442.615	Lamps, Reflectors, and Signals
442.620	Wiring

SUBPART E: EQUIPMENT REQUIREMENTS

Section

442.705	Fire Extinguisher Extinguishers (Purchaser's Option)
442.710	First-Aid Kit (Purchaser's Option)
442.715	Warning Devices (Optional) Warning Devices for Disabled Vehicle (Purchaser's Option)
442.APPENDIX A	Hexagon Shaped Stop Signal Arm (Repealed)
442.APPENDIX B	Federal Motor Vehicle Safety Standards (FMVSS) and Related Rules (Repealed)
442.APPENDIX C	Specification for Sheet Reflective Material – Encapsulated Lens (Based on FHWA Notice N 5040.17, June 15, 1976) (Repealed)
442.APPENDIX D	Sheeting and Tape, Reflective: Nonexposed Lens (Repealed)
442.APPENDIX E	Octagon Shaped Stop Signal Arm

AUTHORITY: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

SOURCE: Adopted at 2 Ill. Reg. 45, p. 115, effective November 10, 1978; codified at 8 Ill. Reg. 15002; amended at 8 Ill. Reg. 15505, effective August 10, 1984; amended at 12 Ill. Reg. 4220, effective February 9, 1988; amended at 16 Ill. Reg. 1685, effective January 14, 1992; amended at 17 Ill. Reg. 3540, effective March 2, 1993; amended at 18 Ill. Reg. 14789, effective September 20, 1994; amended at 26 Ill. Reg. 3255, effective February 19, 2002; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 442.130 Incorporation by Reference and Certification

- a) [Each bus body and chassis must conform to the applicable provisions of the Federal Motor Vehicle Safety Standards \(FMVSS\) \(49 CFR 571.1 through 571.404\). Those applicable provisions of the FMVSS are incorporated by reference as that part of the FMVSS was in effect on October 1, 2006. No later amendments to or editions of 49 CFR 571 are incorporated.](#)

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- b) Each bus body and chassis must conform to the applicable provisions of 49 CFR 567, Certification, and 49 CFR 568, Vehicles Manufactured in Two or More Stages, that were in effect on the first day of the month in which the chassis manufacturer completed his last manufacturing operation on the incomplete bus. Those applicable provisions are incorporated by reference as they were in effect on October 1, 2006. No later amendments to or editions of 49 CFR 567 and 49 CFR 568 are incorporated.
- c) Each school bus must conform to the applicable Standards and Recommended Practices of the Society of Automotive Engineers Handbook. Those applicable provisions of the SAE Standards and Recommended Practices are incorporated by reference as of the 2005 edition date. No later amendments to or editions of the SAE Standards and Recommended Practices are incorporated.
- d) Copies of the above materials incorporated by reference are available for inspection at the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The federal standards are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- a) ~~Each school bus must conform to the applicable provisions of the Federal Motor Vehicle Safety Standards (FMVSS) (49 CFR 571.100 through 571.304). Those applicable provisions of the FMVSS are incorporated by reference as that subpart of the FMVSS that was in effect on October 1, 2000. No later amendments to or editions of 49 CFR 571.100 through 571.304 are incorporated.~~
- b) ~~Federal Standards: The manufacturer, and all incomplete vehicle and intermediate manufacturers, shall comply with the applicable provisions of Part 567 "Certification", and Part 568 "Vehicles Manufactured in Two or More Stages", in 49 CFR 567 and 568, including the permanent affixing of a label in conformance with the above mentioned FMVSS. This label constitutes the manufacturer's certification to all persons and organizations that the bus conforms to all applicable provisions of the FMVSS.~~
- e) ~~State Standards: The manufacturer must comply with all provisions of this Part in effect on the first day of the month/year that the vehicle was manufactured.~~

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- d) ~~Each school bus must conform to the applicable standards of the Society of Automotive Engineers Handbook (SAE) (Volume 2 Sections 15-26). Those applicable provisions of the SAE standards are incorporated by reference as of the 1998 edition date. No later amendments to or editions of the SAE standards are incorporated.~~
- e) ~~Copies of the above materials incorporated by reference are available for inspection at the Department's Commercial Vehicle Safety Section, 3215 Executive Park Drive, Springfield, Illinois 62703.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: CONSTRUCTION OF BODY

Section 442.208 Barriers, Guard

- a) A restraining guard barrier shall be installed in front of the right and left front passenger seats. Barriers shall be constructed to guard passengers from being thrown into the stairwell, dash, windshield, or driver's compartment. Barriers shall be padded to give knee and head impact protection. Barriers shall conform to S5.2 through S5.2.3 of FMVSS 222.
- b) The vertical distance from the floor covering to the top of a barrier positioned in front of a student's seat shall measure not less than the vertical distance from the floor covering to the top of the seat back on the seat back installed behind that barrier.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 442.218 Crossing Control Arm

- a) Must meet or exceed SAE Recommended Practice J1133.
- b) Must be capable of full operation between, and including, the temperatures -40 degrees F and 160 degrees F.
- c) The arm, when activated, must extend a minimum of five feet from the front face of the bumper.

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- d) The arm must be mounted on the far right side (entry side) of the front bumper.
- e) Appropriate brackets shall be used to attach the arm to the front bumper for proper operation and storage.
- f) All component parts must meet or exceed any applicable FMVSS in effect at the time of manufacture.
- g) The arm must extend at the same time the stop arm panel extends. An independent "on/off" switch is prohibited.
- h) If the driver can stop the arm from extending with the use of an optional override switch, the arm sequence must automatically reset once the service door is closed.
- i) Red lights and/or red reflectors are prohibited.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.230 Emergency Exits and Door Alarms

- a) Each emergency exit shall be equipped with an interior opening device which may be quickly released but which is designed to offer protection against accidental release. Each exterior release handle must be nonhitchable.

AGENCY NOTE: "Nonhitchable" is defined as the rear of the bus being designed and maintained to prevent or discourage riding or grasping the rear of the bus so as to "hitch" rides.

- b) All emergency exits shall conform to the applicable requirements of the FMVSS 217 (49 CFR 571.217).
 - 1) Each opening for a required emergency exit window or door must be outlined around its exterior perimeter with, at a minimum, 1 inch (2.54 cm) wide yellow retroreflective tape. All retroreflective tape must be on the exterior surface of the bus and conform to all requirements of 49 CFR 571.217. Emergency roof exits may be outlined in either yellow or white retroreflective tape. Yellow retroreflective tape can be located on the rear bumper or rub rail provided the space under the emergency exit door or emergency exit window is not adequate to accommodate the tape or

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provided rivets are present that prohibit the tape from being applied properly.

- 2) Both audible and visible alarms shall alert the driver when the engine is running and any emergency exit door either:
 - A) Is not fully latched, or
 - B) Is locked and not readily operated manually.
- 3) An audible alarm shall alert the driver when the engine is running and any emergency exit window either:
 - A) Is not fully latched, or
 - B) Is locked and not readily operated manually.
- 4) The engine starting system shall not operate while any emergency exit door or window (optional or required) is locked from either inside or outside the bus. "Locked" means that the release mechanism cannot be activated and the exit cannot be opened by a person at the exit without a special device such as a key or special information such as a combination.
- 5) An alarm cut-off or "squelch" control is prohibited.
- 6) Exception: No alarm is required for roof hatches.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.245 Heaters Heater

- a) An inside temperature of not less than 50 degrees Fahrenheit at average minimum January temperature as established by the U.S. Department of Commerce, National Weather Service Office, for the area in which the vehicle is to be operated shall be maintained throughout the bus.
- b) The primary heater shall be a high output, fresh air type.
- c) The secondary heater may be recirculating type, and located so as not to interfere

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with aisle space. Each secondary heater shall display a nameplate that identifies the manufacturer and the heater capacity rating.

- d) The heater hoses shall be adequately supported to guard against excessive wear due to vibration and shall not interfere with or restrict the operation of any engine function. Any hose in the passenger compartment shall be adequately protected to prevent injury from burns in the event of rupture.
- e) Auxiliary fuel-fired heating systems are permitted provided they comply with the following:
- 1) The auxiliary heating system fuel shall utilize the same type of fuel as specified for the vehicle engine;
 - 2) The heater or heaters may be direct hot air or connected to the engine's coolant system;
 - 3) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus' heating system;
 - 4) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and shall not direct exhaust in a manner that will endanger bus passengers (e.g., under windows);
 - 5) Auxiliary heating systems that operate on diesel fuel shall be capable of operating on:
 - A) a hot water and/or combustion type heater; or
 - B) if only one heater is used, a fresh-air or combination fresh-air and recirculation type heater; or
 - C) blended diesel fuel without the need for system adjustment.
 - 6) The auxiliary heating system shall be low voltage.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 442.250 Identification/Lettering

- a) Except where otherwise required or allowed, lettering on the exterior of the body shall be black against a national school bus glossy yellow background. All required letters and numerals shall conform to Series "B", or heavier series, of the Standard Alphabets for Highway Signs issued by the Federal Highway Administration, Washington, D.C. 20591. Decals may be used instead of paint. Signs, numbers, or ~~lettering~~letterings, other than those either required by [Section 12-802 of the Code](#) or ~~this Part~~required or permitted by these standards shall not be affixed permanently on either the exterior or interior of the bus ~~or the interior glazing so as to be visible to the outside~~. Interior lettering shall contrast with its background.
- b) The words "SCHOOL BUS" shall be displayed against a national school bus glossy yellow background as high as practical and approximately centered on the front and rear of the bus body, in letters at least 200 mm (8") high (see Section 12-802 of the Code). These words may be painted on or applied to the bus body or displayed on a sign firmly attached to or built into the body. The background of an illuminated sign shall approximate the national school bus glossy yellow color as closely as feasible.
- c) A school bus identification number, supplied by the purchaser, shall be displayed as high as practical on the front and rear of the bus in numerals not less than 100 mm (4") high. Such number may be displayed on the sides of the bus as specified by the purchaser. [As an option, identification numbers may be located on the rooftop.](#)
- d) *Either the owner's name or the school district number or both must be displayed on both sides of the bus at least four inches high, approximately centered and as high as practicable below the window line* (Section 12-802 of the Code). The lettering must be located on one line.
- e) The body and/or chassis manufacturer's name, emblem, or other identification may be displayed, colorless or in any color, on any unglazed surface of the bus so as not to be mistaken for the name required in subsection (d) of this Section, and so as not to interfere with any required letters or numerals.
- f) The words "EMPTY WEIGHT", or the abbreviation "EMPTY WT.", or the letters "E.W.", followed by the empty weight of the bus (see Section 442.120), stated in

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pounds, shall be displayed on the exterior of the body near the rear edge of the service entrance in numerals and letters at least 50 mm (2") high (see Section 12-802 of the Code).

Examples: EMPTY WEIGHT 16,800 lb E.W. 16,800 lb

- g) The word "CAPACITY", or the abbreviation "CAP.", and the rated passenger capacity, as described in Section 442.214, followed by the word "PASSENGERS", or the abbreviation "PASS.", shall be displayed on the exterior of the body near the rear edge of the service entranceway, and on the interior above the right portion of the windshield, in numerals and letters at least 50 mm (2") high (see Section 12-802 of the Code).
- h) The words "NO STANDEES" shall be displayed only on the interior above the windshield, approximately opposite the aisle but to the right of the mirror and sun visor, in letters at least 50 mm (2") high.
- i) The words "EMERGENCY DOOR" or "EMERGENCY EXIT" in letters at least 5 cm (2") high must be displayed on the interior and exterior of the bus. "EMERGENCY DOOR" must be displayed at the top of, or directly above, any emergency exit door. "EMERGENCY EXIT" must be displayed at the top of, or directly above, or at the bottom of, any emergency exit window. They may be displayed on a separate colorless background (such as white, aluminum, or silver) that extends no more than 15 mm (.6") above or below the words and no more than 25 mm (1") to the right or left of the words.
- j) A black arrow, curved or straight, at least 150 mm (5.9") in length and 15 mm (.6") in width, showing the direction each exterior emergency exit release mechanism is to be moved to open the emergency exit, shall be painted or permanently affixed on the exterior yellow portion of the bus within 150 mm (5.9") of each release mechanism.
- k) An arrow showing the direction each interior emergency exit release mechanism is to be moved to open the emergency exit shall be painted or permanently affixed on the interior of the bus within 150 mm (5.9") of each emergency exit release mechanism. Each interior arrow shall contrast with its background and, where suitable space is limited, may be smaller than the exterior arrow(s) but must be conspicuous.

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- l) Alternate Fuel
- 1) *If the bus uses alternate fuel (e.g., propane, CNG), the vehicle must be marked with an identifying decal. Such decal shall be diamond shaped with white or silver scotchlite letters one inch in height and a stroke of the brush at least 1/4 inch wide on a black background with a white or silver scotchlite border bearing either the words or letters:*
- "PROPANE" = If propelled by liquefied petroleum gas other than liquefied natural gas; or*
- "CNG" = If propelled by compressed natural gas. The sign or decal shall be maintained in good legible condition.*
- 2) *The alternate fuel decal shall be displayed near the rear bumper and visible from the rear of the vehicle.* (Section 12-704.3 of the Code)
- m) The vehicle's length (rounded up to nearest whole foot) must be displayed on or adjacent to the interior bulkhead clearly within the driver's view. (For example: vehicle length of 39.1 feet will be displayed as 40 feet.) Each letter or numeral must be at least two inches high and black in color. The measurement must be taken from the front bumper to the rear bumper.
- n) A "Stop Line" in contrasting color is required between 5.9 and 6.1 inches below the top of each side window opening. The line shall be located between each window that slides downward.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.258 Paint/Color Requirements

- a) *The exterior of each school bus shall be national school bus glossy yellow except as indicated in subsections (b) through (i) of this Section.*
- b) *The rooftop may be white. Optional white roof shall terminate at any point from top of drip rail to 6" above drip rail. The front and rear roof caps shall remain national school bus glossy yellow.*
- c) *Body trim, rub rails, and lettering other than on a stop signal arm shall be glossy*

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black. Bumpers may be glossy black or a bright, light or colorless finish.

- d) *Lettering on a stop signal arm shall be white on a red background.*
- e) *The hood and upper cowl may be lusterless black or lusterless school bus yellow.*
- f) *Grilles on the front, lamp trim and hubcaps may be a bright finish. Wheels and rims may be black, gray, or manufacturer's colors.*
- g) *The name or emblem of a manufacturer may be colorless or any color.*
- h) *The exterior paint of any school bus shall match the central value, hue and chroma set forth in this Part. (Section 12-801 of the Code)*
- i) Each opening for a required emergency exit window or door must be outlined around its outside perimeter with a minimum 1 inch (2.54 cm) wide yellow retroreflective tape. All retroreflective tape must be on the exterior surface of the bus and conform to all requirements of 49 CFR 571.217. Yellow retroreflective tape can be located on the rear bumper or rub rail provided the space under the emergency exit door or emergency exit window is not adequate to accommodate the tape or provided rivets are present that prohibit the tape from being applied properly. ~~Yellow retroreflective tape can be located on the rear bumper provided the space between the top of the bumper and the bottom of the rear emergency exit door is not adequate to accommodate the tape.~~ Emergency roof exits may be outlined in either yellow or white retroreflective tape.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.265 Seat Belts, Driver's and Passengers'

- a) See the FMVSS for requirements (49 CFR 571.209 and 210).
- b) The driver's seat belt assembly shall be arranged so that all portions of the assembly remain above the floor when not in use.
- c) If a retractor or retractors~~retractor(s)~~ are installed, they shall be the emergencyautomatic locking type.
- d) The driver's seat must be equipped with a lap belt/shoulder harness design.

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(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.280 Stanchion Guard Panel or Barrier Guard (Repealed)

~~Either a Type A or Type B Guard shall be installed.~~

- a) ~~Type A—Barrier Guard: A restraining barrier shall be installed in front of the right front passenger seat. The barrier shall be constructed to guard nonrestrained passenger(s) against being thrown into the stair well or into the dash or windshield and shall be padded to give knee and head impact protection. The barrier shall conform to S5.2 of FMVSS 222, except that barrier width and barrier/seat separation shall be as required in paragraph (a)(1) and (2).~~
- ~~1) The width of the barrier shall be reduced only as necessary to maintain a 12" wide aisle and service entrance way.~~
 - ~~2) The horizontal distance between the rear surface of the barrier and the front surface of the seat back shall be not less than 23".~~
 - ~~3) The vertical distance between the floor and the bottom of the barrier shall not exceed 2" at any point.~~
 - ~~4) Except for the grab handle required in Section 442.275(d), the barrier shall not extend more than one inch ahead of the rear of the service door opening and no more than one inch into the space above a service entrance step.~~
 - ~~5) No portion of the barrier shall present a "snagging", sharp, tripping or other hostile surface to a person moving through the aisle or service entrance way.~~
- b) ~~Type B—Stanchion Guard Panel: A stanchion post shall be installed to the rear and left of the entrance step well from the roof to the floor. Placement shall not restrict passageway at any level in either the service entrance door area or the aisle to less than 12".~~
- ~~1) A guard rail and step well guard panel—sometimes called "modesty panel"—shall be installed from the step well stanchion to the right wall to~~

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~~guard nonrestrained right front seat passengers against being thrown into the step well or the dash or the windshield. The guard rail shall be approximately 30" above the floor and its guard panel shall not restrict the entrance passageway at any level. The panel shall extend from the guard rail to within two inches of the floor. The guard panel shall be positioned or flanged to avoid having its lower edge extended over the step well. The guard panel shall be at least 23" ahead of the front surface of the seat back on the right front seat.~~

- ~~2) All stanchions and guard rails shall be a minimum of one inch outside diameter steel or equivalent strength tubing.~~
- ~~3) Devices used to fasten the stanchion, guard rail and step well guard panel shall be of sufficient strength to hold in place if struck by passenger weight in a collision.~~
- ~~4) Padding shall be applied to the stanchion and shall extend to within three inches of the bus ceiling and to within three inches of the bus floor. Padding on the guard rail shall extend from the bus wall to the point of support on the stanchion.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 442.285 Stop Signal Arm Panel

- a) A stop signal arm panel must be installed on the left side of the bus that conforms to 49 CFR 571.131. ~~The panel may be operated either manually or mechanically.~~ Decals may be used in lieu of painting. Strobe lamps are acceptable on stop signal arm panels. See Appendix E for example.
- ~~b) "Operated...mechanically" shall be interpreted to include power operation. Also, "16 gauge metal" shall be interpreted to include thicker metal and any nonmetallic material equivalent or superior to hot rolled 16 gauge mild steel in stiffness, corrosion resistance, and durability.~~
- be) Additional stop signal arm panels may be added at the purchaser's request. Additional panels must be located on the left side of the bus. Additional panels must operate in conjunction with the required panel and meet all stop arm panel requirements except as follows. The additional panel must not contain any lights,

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marking or reflective material on the front side of the panel. The additional panel must be located in the rear half of the bus adjacent to the rearmost window.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART C: CHASSIS REQUIREMENTS

Section 442.455 Horn

The bus shall be equipped with at least one horn *capable of emitting sound audible under normal conditions from a distance of not less than 200 feet.* (Section 12-601 of the Code) The horn shall be conveniently controlled from the operator's position and tested in accordance with SAE Standard J377.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.465 Instruments

The bus shall be equipped with the following nonglare illuminated instruments and gauges mounted for easy maintenance and repair and in such a manner that each is clearly visible to the seated operator. An indicator light in lieu of a pressure or temperature gauge is permissible.

- a) Speedometer
- b) Odometer
- c) Fuel Gauge
- d) Oil Pressure Gauge
- e) Water Temperature Gauge
- f) Ampere Meter or Volt Meter~~Ammeter (voltmeter)~~ with graduated charge and discharge indications

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART D: ELECTRICAL SYSTEMSSYSTEM REQUIREMENTS

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Section 442.605 Battery and Battery Compartment

- a) The storage battery shall be a nominal 12-volt type. It shall be of sufficient capacity to supply all electrical requirements but shall be rated, as specified in SAE Standard J537, not less than either 70-ampere hours at the 20-hour discharge rate specified in SAE J537e or 105-minutes at the 25-ampere discharge rate specified in SAE J537h.
- b) When the battery is mounted outside the engine compartment, it shall be attached securely in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by an adequate manually-operated latch or fastener. Each electrical cable connecting the battery in this compartment to the body or chassis shall be one piece between the battery terminal connector and the first body or chassis terminal connector.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.615 Lamps, Reflectors, and Signals

- a) See the FMVSS for requirements (49 CFR 571.108). Light Emitting Diode (LED) lamps that meet applicable FMVSS or SAE Standards or SAE Recommended Practices are acceptable.
- b) Alternately Flashing Signal Lamps. Each bus shall be equipped with an eight lamp alternately flashing signal system that conforms to S5.1.4(b) of the FMVSS 108 (49 CFR 571.108) and Section 12-805 of the Code 625 ILCS 5/12-805. A separate circuit breaker and a master switch shall be provided for this signal system. When in its "off" position, this master switch shall prevent operation of the eight lamp system; shall prevent operation of any lamps mounted on the stop signal arm panel required under subsection (hh); and shall prevent operation of any electrically controlled mechanism that would cause the stop signal arm panel to extend. The controls for the eight lamp flashing signals, the stop signal arm panel, and the service entrance door shall be arranged so as to provide for the following sequence of operations while the engine is running:
- 1) Place the alternately flashing signal system master switch in its "off" position. Close and secure the service entrance door. Actuate the alternately flashing signal system hand or foot control. The alternately

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flashing signal lamps of either yellow (amber) or red color shall not go on.

- 2) With the master switch "off" and the hand or foot control actuated, open the service door. The alternately flashing signals of either color shall not go on and the stop signal arm panel shall not extend.
 - 3) Deactivate the hand or foot control. Place the alternately flashing signal system master switch in its "on" position. Close and secure the service door. Then open the service door. The alternately flashing signal lamps of either color shall not go on and the stop signal arm panel shall not extend.
 - 4) Close and secure the service door. Actuate the alternately flashing signal system by hand or foot control. A yellow pilot lamp in the view of the driver and the yellow alternately flashing signals shall go on.
 - 5) Desecure but do not open the service door. The yellow pilot and the yellow alternately flashing signals shall go off. A red pilot lamp in the view of the driver and the red alternately flashing signals shall go on. The stop signal arm panel shall extend.
 - 6) Fully open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
 - 7) Close but do not secure the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
 - 8) Open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
 - 9) Close and secure the service door. The red pilot and red signals shall go off and the stop arm shall retract.
 - 10) Open the service door. Alternately flashing signals of either color shall not go on and the stop arm shall not extend.
- c) Interior Lighting. A minimum of two interior dome lamps shall be installed to adequately illuminate the entire aisle, the emergency passageway, and the stepwell. At least the nosings of the service entrance steps and the floor around

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the stepwell shall be illuminated automatically by opening of the service door. No lamp shall be installed at or near the eye level of a pupil moving through the service entranceway to the aisle unless such lamp does not shine directly into the ~~eye~~eye(s) of any such pupil. For buses designed to transport 33 or more passengers, at least two interior illumination lamps shall be installed.

- d) Rear Turn Signals. Yellow turn signal lamps shall be mounted on the rear as far apart as practical and as high as practical but below the rear window. The effective projected illuminated area of these turn signal lamps shall be no less than required for the yellow alternately flashing signal lamps required under subsection (b) of this Section; i.e., .0122 m² (19 in²).
- e) Side Turn Signals. Two yellow side turn signal lamps conforming to SAE J914 shall be installed on each bus designed to transport 33 or more passengers~~are required~~. The lamps shall be "armored" and mounted on the body between the rub rails required ~~in~~under Section 442.260. The right lamp shall be within 1 m (39.4") of the rear of the service entrance. The left lamp shall be approximately the same distance from the front bumper as the right lamp.
- f) Stop Signals. Red stop lamps shall be mounted on the rear as far apart as practical but closer to the vertical centerline of the bus than the rear turn signal lamps required in subsection (d) of this Section, and at the same height as those turn signal lamps. The effective projected illuminated area of these stop lamps shall be no less than required for the red alternately flashing signal lamps required under subsection (b) of this Section, i.e., .0122 m² (19 in²).
- g) Strobe:
- 1) *One per bus;*
 - 2) *Shall emit white or bluish-white light;*
 - 3) *Shall be visible from any direction;*
 - 4) *Shall flash 60 to 120 times per minute;*
 - 5) *Shall be visible in normal sunlight;*
 - 6) *Mounted at or behind center of rooftop and equal distance from each side.*

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Distance from rear will be calculated by measuring height of filament and multiplying same by 30 inches (i.e., filament height measured from the base of the strobe x 30 = distance from rear of bus where lamp is to be located). (Section 12-815 of the Code)

- 7) If a roof exit, air conditioner, or the size of the bus interferes with the placement of a strobe as required by subsection (g)(6), the strobe can be placed to the rear of the roof exit or air conditioner as near as practicable above the rear axle and horizontally centered between the rear tires.
- h) Reflectors.
 - 1) Front:
 - A) *Two yellow rigid or sheet type (tape) front reflex reflectors shall be attached securely and as far forward as practicable. (Section 12-202 of the Code)*
 - B) The front reflectors shall be located between 15 and 60 inches above the roadway at either fender, cowl, or body and installed so as to mark the outer edge of the maximum width of the bus.
 - C) No part of the required reflecting material may be obscured by a lamp, mirror, bracket, or any other portion of the bus. No part of the required reflecting material may be more than 11.8 inches (300 mm) inboard of the outer edge of the nearest rub rail (12 inches on a bus with chassis manufactured in March 1977 or earlier).
 - D) The reflector may be any shape (e.g., square, rectangle, circle, oval, etc.). A rigid type reflex reflector may be any size if permanently marked either DOT, SAE A, or SAE J 594; otherwise, it shall display at least seven square inches of reflecting material (about 3 inch diameter if a solid circle).
 - E) A sheet type (tape) reflex reflector may conform to the surface on which it is installed but its forward projected reflecting area shall be at least eight square inches.
 - F) Exception: Buses that measure less than 80 inches wide are

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exempt. (49 CFR 571.108)

- 2) Left Side:
One amber no more than 12 inches from the front and one red no more than 12 inches from the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. (Section 12-202 of the Code) On buses 20 feet or more in length, one amber as near center as practicable must also be provided. Reflectors must measure a minimum three inches in diameter.
- 3) Right Side:
One amber no more than 12 inches from the front and one red no more than 12 inches from the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. (Section 12-202 of the Code) On buses 20 feet or more in length, one amber as near center as practicable must also be provided. Reflectors must measure a minimum three inches in diameter.
- 4) Rear:
 - A) *Two red reflectors on rear body within 12 inches of lower right and lower left corners. (Section 12-202 of the Code) Minimum three inches in diameter.*
 - B) Exception: Buses that measure less than 80 inches wide are exempt. (49 CFR 571.108)

AGENCY NOTE: See Section 442.258 for retroreflective tape requirements.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 442.620 Wiring

- a) See the FMVSS for requirements (49 CFR 571).
- b) All wiring for lamps and other electrical devices shall be as recommended for automobiles, motor coaches, and heavy duty starting motor circuits in SAE Recommended Practices ~~J1292, J556, J555a~~ and J541a and in other practices or standards referenced in the SAE Recommended Practices, unless specifically

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preempted by the FMVSS or this Part.

- c) Manufacturer's circuit arrangements are acceptable; however, a separate circuit for the alternately flashing signal lamps and stop signal arm lamps shall be installed.
- d) Extra fusesfuse(s) for each size of fuse used on the bus may be conveniently mounted on the bus body if specified by the purchaser.
- e) A noise suppression switch that is capable of turning off noise producing accessories, including, but not limited to, heater blowers, defroster fans, auxiliary fans and radios, must be present. (See Section 12-815.2 of the Code.)

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART E: EQUIPMENT REQUIREMENTS

Section 442.715 Warning Devices (Optional)~~Warning Devices for Disabled Vehicles (Purchaser's Option)~~

AGENCY NOTE: School buses weighing more than 8,000 pounds and operated upon any highway outside an urban district must carry warning devices, but the bus purchaser may elect to install the warning devices after the bus is purchased.

- a) The warning devices must be securely stored. The warning devices required for use when lighted lamps are required (see Section 12-201(b) of the Code) shall consist of:
 - 1) At least three liquid-burning flares and three red-burning 15-minute fuses; or
 - 2) Three red electric lanterns; or
 - 3) Three portable red emergency reflectors that meet FMVSS 125.
- b) In addition, the following warning devices are also required for use when lighted lamps are not required (see Section 12-201(b) of the Code):

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- 1) Two red cloth flags (not less than 12 inches square with standards to support flags); or
- 2) Two portable emergency reflectors that meet FMVSS 125. (The reflectors in subsection (a)(3) of this Section qualify for this option.) (See Section 12-702(a) and (c) of the Code.)

~~Emergency warning devices are required to be carried on school buses weighing more than 8,000 pounds and operated upon any highway outside an urban district. The warning devices must be securely stored. The warning devices shall consist of:~~

- a) ~~At least three portable red emergency reflective devices that conform to 49 CFR 571.125; and~~
- b) ~~At least two red cloth flags, not less than 12 inches square, with standards to support the flags; or in lieu of the flags, at least two additional portable emergency reflective devices that conform to 49 CFR 571.125. (Section 12-702 of the Code)~~

~~AGENCY NOTE: The purchaser may elect to install the warning devices after the bus is purchased.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Rates to be Charged by Official Testing Stations for School Buses
- 2) Code Citation: 92 Ill. Adm. Code 446
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
446.101	Repeal
446.102	Repeal
446.103	Repeal
446.104	Repeal
446.105	Repeal
446.106	Repeal
446.107	Repeal
446.201	Repeal
446.202	Repeal
446.203	Repeal
446.204	Repeal
446.301	Repeal
446.302	Repeal
446.303	Repeal
446.304	Repeal
446.305	Repeal
446.306	Repeal
446.307	Repeal
446.401	Repeal
446.402	Repeal
446.403	Repeal
446.501	Repeal
446.502	Repeal
446.503	Repeal
446.504	Repeal
446.505	Repeal
446.601	Repeal
446.602	Repeal
446.603	Repeal
446.604	Repeal
446.605	Repeal
446.606	Repeal
446.607	Repeal

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446.701 Repeal
446.702 Repeal
446.703 Repeal

- 4) Statutory Authority: Implementing and authorized by Section 13-106 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-106]
- 5) A complete description of the subjects and issues involved: The Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to replace it with a new Part, 92 Ill. Adm. Code 439, that will combine existing procedures and establish new procedures for determining rates to be charged for conducting safety tests of school buses and other vehicles at Illinois Official Testing Stations. The new Part 439 will consolidate, clarify, and streamline the rate procedures for operators of Official Testing Stations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed repealer will have no effect on local municipalities.
- 12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

By U.S. Mail:

Ms Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
PO Box 19212

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Springfield, Illinois 62794-9212

217/785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms Christine Caronna-Beard, Rules Manager
Office of Chief Counsel
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This proposed repealer will not affect small businesses. Small business operators that conduct safety tests of vehicles at Official Testing Stations will be impacted by the new Part, 92 Ill. Adm. Code 439, published elsewhere in this issue of the *Illinois Register*.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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The full text of this Proposed Repealer begins on the next page:

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 446

RATES TO BE CHARGED BY OFFICIAL TESTING STATIONS FOR SCHOOL BUSES [\(REPEALED\)](#)

SUBPART A: RULES OF GENERAL APPLICABILITY

Section

- 446.101 General Information
- 446.102 Information; Special Instructions
- 446.103 Communications and Pleadings
- 446.104 Definitions
- 446.105 Rules of Construction
- 446.106 Regulatory Dockets
- 446.107 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section

- 446.201 Typographical Specifications
- 446.202 Copies
- 446.203 Time
- 446.204 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section

- 446.301 General Requirements
- 446.302 Application for Rate Approval
- 446.303 Initial Application Review
- 446.304 Processing of Application
- 446.305 Withdrawal
- 446.306 Application for Rate Change
- 446.307 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

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- Section
- 446.401 General Requirements
- 446.402 Rates or Charges
- 446.403 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL
OF DISALLOWED RATES AND APPEALS

- Section
- 446.501 Request for Hearing
- 446.502 Notice and Place of Hearing
- 446.503 Hearings
- 446.504 Presiding Officer's Decision
- 446.505 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

- Section
- 446.601 Notice
- 446.602 Complaints
- 446.603 Reply
- 446.604 Request for Hearing
- 446.605 Hearing
- 446.606 Presiding Officer's Decision
- 446.607 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

- Section
- 446.701 Discovery
- 446.702 Motions
- 446.703 Intervention

AUTHORITY: Implementing and authorized by Section 13-106 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-106].

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SOURCE: Adopted at 6 Ill. Reg. 1291, effective February 1, 1982; codified at 6 Ill. Reg. 14689; amended at 19 Ill. Reg. 15754, effective November 2, 1995; repealed at 31 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 446.101 General Information

- a) **Scope of Rules.** These rules prescribe the requirements of the Illinois Department of Transportation governing the rates to be charged for safety test of school buses and prescribe the practices and procedures which shall govern all hearings conducted by the Department relating to rates charged by Official Testing Stations.
- b) **Applicability.** These rules apply to every operator of an Official Testing Station conducting safety tests of school buses.
- c) **References.** These rules shall be referred to as the "Rules on Rates for School Buses".

Section 446.102 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.

Section 446.103 Communications and Pleadings

- a) **How addressed.** All communications and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212. A communication should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his address, and the party he represents.
- b) **Timely Filing Required.** All documents required or permitted to be filed under this Part must be received for filing at the offices of the Department's Division of

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Traffic Safety in Springfield, Illinois, within the time limits for such filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if such document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.

- c) Disposition of When Defective. In any proceeding when upon inspection the Department is of the opinion that a document tendered for filing does not comply with this Part or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept the document for filing and may return it unfiled or the Department may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

Section 446.104 Definitions

As used in this Part:

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its authorized agents or officers. (Section 13-100 of the Code)

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation.

"Division" means the Division of Traffic Safety of the Illinois Department of Transportation.

"Official Testing Station" means all contiguous real and personal property which houses the testing lane(s) and all equipment and supplies relating to the vehicle safety test program.

"Person" means any person as defined in Section 1-159 of the Code.

"Rate" or "Charge" means the monetary charge to any person offering a school bus for a safety test pursuant to Section 13-106 of the Code.

"Safety test" means the test required by Section 13-101 of the Code.

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"School bus" means

Every motor vehicle, except as provided below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division. (Section 1-182 of the Code)

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Section" means the Commercial Vehicle Safety Section of the Bureau of Safety Programs of the Division of Traffic Safety of the Department.

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Section 446.105 Rules of Construction

- a) In these Rules unless the context required otherwise:
 - 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular;
 - 3) Words imparting the masculine gender include the feminine.
- b) In these Rules, the word:
 - 1) "Shall" is used in an imperative sense;
 - 2) "Must" is used in an imperative sense;
 - 3) "Should" is used in a recommendatory sense;
 - 4) "May" is used in a permissive sense to state authority or permission to do the act described and the words "no person may * * * " or "a person may not * * * " means that no person is required, authorized or permitted to do the act described; and
 - 5) "Includes" is used as a word of inclusion not limitation.

Section 446.106 Regulatory Dockets

- a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety , Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, Springfield, Illinois 62794-9212.
- b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

Section 446.107 Appearances

Any person either involved in or entitled to participate in proceedings may appear as follows:

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- a) A natural person may appear in his own behalf or through counsel of his choice;
- b) A business, non-profit or governmental organization may appear by an officer, employee or representative, or may be represented by counsel of its choice;
- c) Any attorney appearing in a representative capacity shall file a written notice of appearance.

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section 446.201 Typographical Specifications

Except as otherwise provided, all documents shall be typewritten or reproduced from typewritten copy on unglazed white paper measuring 8½" x 11". Margins of at least one inch shall be allowed on the left and right margins. Reproduction of documents may be by any process provided the copies are clear and permanently legible. Typewritten documents must be double-spaced, except that long quotations may be single-spaced and indented. Lengthy documents should be accompanied by an index. Failure to observe these specifications may result in rejection.

Section 446.202 Copies

Except as otherwise provided in these rules, an original copy of all documents, including complaints, motions, petitions and notices of appeal, shall be filed with the Director and shall bear the docket number and the title of the proceeding in connection with which they are filed.

Section 446.203 Time

- a) **Computation.** In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is Saturday, Sunday, or a legal holiday in the State of Illinois, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. This rule shall apply to the measurement of time forward, as well as backward from a specified date.
- b) When the date designated for filing briefs or other documents is a Saturday, Sunday or a legal holiday in the State of Illinois, that date shall be extended to the next day which is neither a Saturday, Sunday nor a legal holiday in the State of

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Illinois.

- c) Modification. Any time period may, upon request and for good cause shown, be modified by the Director in his discretion. Request for extensions or modifications of time must be served on all parties at the same time and by the same method of communication as service is made on the Department. Only the original of the request need be filed with the Department.

Section 446.204 Service

- a) Each order, notice, or other document required to be served under these Rules shall be served personally or by first class, registered or certified mail, except as otherwise provided.
- b) Service upon a person's duly authorized representative constitutes service upon that person.
- c) Service by registered or certified mail is complete upon mailing. An official United States Postal Service receipt for registered or certified mail constitutes prima facie evidence of service.
- d) One copy of each order, notice or other document must be served on each party. Service on any party shall be by the same means employed in serving all other parties.

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 446.301 General Requirements

- a) No operator of an Official Testing Station shall make, establish, implement, collect or otherwise enforce any rate or charge or schedule of rates or charges for performing a safety test for any school bus unless that rate or charge or schedule of rates or charges has been made or established in accordance with the provisions of this Part.
- b) No operator of an Official Testing Station shall change any rate or charge or schedule of rates or charges unless that change has been made in accordance with the provisions of this Part.

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- c) No applicant for a school bus Official Testing Station permit shall be issued that permit unless the applicant, in accordance with the provisions of this Part, has filed with the Department a proposed schedule of rates and charges and the Department has approved that schedule.

Section 446.302 Application for Rate Approval

- a) Every operator of a currently licensed school bus Official Testing Station must file with the Department, within 60 days of the effective date of this Part, a schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application for approval shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, Springfield, Illinois 62794-9212.
- b) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application made under this paragraph shall be filed by the applicant with his application for a station permit pursuant to 92 Ill. Adm. Code 451 – Administrative Requirements for Official Testing Stations. The applicant shall submit his proposed schedule on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, Springfield, Illinois 62794-9212.
- c) A schedule of rates and charges filed with the Department under subsections (a) and (b) of this Section shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the Code, which amount shall not exceed the fee paid by the operator to the Department for the certificate.

Section 446.303 Initial Application Review

In the case of an application for rate approval under Section 446.302, the Section reviews the application to determine whether it is complete and conforms to the requirements of this Part. This determination will be made within 15 days of the receipt of the application. If the application is not returned to the applicant by the end of that period, it will be processed as

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provided in Section 446.304. If an application is returned, the applicant will be informed in what respects the application is incomplete.

Section 446.304 Processing of Application

- a) Any and all rates and charges to be made by an operator of an Official Testing Station for performing a safety test on school buses shall be approved by the Department prior to the rates and charges becoming effective.
- b) After an application for rate approval is determined to be complete, the Section processes the application. No public hearing, argument, or other formal proceeding is held directly on an application filed under Section 446.302.
- c) If the Section determines pursuant to Section 446.402 that the rates and charges proposed are not just and reasonable, it denies the application and notifies the applicant in writing, together with the reasons therefor.
- d) If the Section determines pursuant to Section 446.402 that the rates and charges proposed are just and reasonable, it grants the application and notifies the applicant in writing.

Section 446.305 Withdrawal

- a) An applicant may withdraw an application for rate approval at any time prior to it being finally determined.
- b) Withdrawal of an application does not authorize the removal of any related records from the dockets or files of the Division.

Section 446.306 Application for Rate Change

- a) Any operator of an Official Testing Station who desires to change his schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made by him for performing a safety test on school buses.
- b) Applications under subsection (a) of this Section shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 3215 Executive

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Park Drive, P. O. Box 19212, Springfield, Illinois 62794-9212.

- c) Applications under this Section shall initially be reviewed as provided in Section 446.303 and processed as provided in Section 446.304.
- d) Withdrawals of applications under this Section shall be governed by Section 446.305.
- e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Section, an applicant may file a written petition under Section 446.307. All hearings scheduled under this paragraph shall be conducted in accordance with the provisions of Sections 446.501, 446.502, 446.503, 446.504 and 446.505.

Section 446.307 Appeal

- a) If a proposed rate or charge or proposed change in rates or charges is disallowed or disapproved by the Section, an applicant may file, within 15 days after the applicant is notified of the disallowance or disapproval, a written petition with the Director for a hearing seeking approval of its proposed rates or charges or proposed change in rates or charges.
- b) The petition for approval of disallowed rates must:
 - 1) State the name and address of the person making the request and of the Official Testing Station involved;
 - 2) Include a statement of ownership of the Official Testing Station, together with the date said ownership commenced;
 - 3) Include a statement setting forth the current rates charged by the lane operator;
 - 4) Include a statement setting forth with particularity the reasons why the lane operator seeks to amend the rates currently being charged;
 - 5) Include a statement of the new rates for which petitioner seeks approval;
 - 6) Include, if applicable, a statement relating to the necessity of obtaining a change in the rates being charged; and

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- 7) State or include any other matters upon which the petitioner bases his request for a hearing.
- c) All hearings scheduled under this Section shall be conducted in accordance with the provisions of Sections 446.501, 446.502, 446.503, 446.504 and 446.505.

SUBPART D: LEVEL OF RATES OR CHARGES

Section 446.401 General Requirements

- a) Any and all rates or charges made by an operator of an Official Testing Station for performing a safety test for a school bus shall be just and reasonable.
- b) A rate of charge is "just and reasonable" if it is the same, or nearly the same, as the prevailing rate of charge for the same or similar tests made in the community where the official testing station is located.

Section 446.402 Rates or Charges

The following rates or charges for safety inspections of school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the counties indicated. An application for a charge or rate equal to or less than the specified charge or rate will be approved. An application for a charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Section, an applicant may appeal the disapproval to the Director under Section 446.307.

1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	\$19.50
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	\$16.50
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	\$14.00
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	\$17.00
5	DeWitt, Logan, Macon, McLean	\$12.50
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	\$11.00

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7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermillion	\$13.50
8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	\$14.00
9	Madison, St. Clair	\$17.50
10	Jackson, Monroe, Perry, Randolph, Union, Washington	\$13.00
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	\$11.00

Section 446.403 Enforcement

- a) The Department upon its own initiative or upon verified complaint of any person may require the operator of an Official Testing Station to appear at a hearing and prove that the rates or charges so filed with the Department are just and reasonable.
- b) The procedures in Sections 446.601, 446.602, 446.603, 446.604 and 446.605 shall govern the proceedings under paragraph (a) of this Section.

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL
OF DISALLOWED RATES AND APPEALS**Section 446.501 Request for Hearing**

- a) If the Department disallows the rates or charges set forth in a schedule which an operator has filed with the Department pursuant to Section 13-106 of the Illinois Vehicle Code and these Rules or any application of an operator to change those rates or charges, the operator may request a hearing upon notification of that disallowance, as provided in Section 446.307.
- b) After a petition for hearing, which complies with the requirement of Section 446.307 is received, the Director schedules a hearing for the earliest date.
- c) The Director may grant extensions of the time of the commencement of the hearing for good cause shown.

Section 446.502 Notice and Place of Hearing

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- a) Hearings on petitions filed by operators of Official Testing Stations in Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators in any other county shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.
- b) The Department shall give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel. In the case of a petition for approval of rate change, the Department shall also cause to be published a Notice of the petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.

Section 446.503 Hearings

- a) When a hearing is requested and scheduled under Section 446.501, a presiding officer designated by the secretary, convenes and presides over the hearing. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim.
- b) The presiding officer may:
- 1) Administer oaths and affirmations;
 - 2) Adopt procedures for the submission of evidence in written form;
 - 3) Rule on offers of proof and receive relevant evidence;
 - 4) Examine witnesses at the hearings;
 - 5) Convene, recess, reconvene, adjourn and otherwise regulate the course of

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the hearing;

- 6) Hold conferences for settlement, simplification of issues, or any other proper purpose; and
 - 7) Take any other action authorized by or consistent with the provisions of this Part and permitted by law which may expedite the hearing or aid in the disposition of an issue raised therein.
- c) The petitioner has the burden of proving the facts alleged in his Petition for Approval of Disallowed Rates, or Petition for Approval of rate change, including proof that the disallowed rate(s) is just an reasonable.
 - d) The petitioner may offer such relevant information and testimony as may be necessary to fully inform the presiding officer as to the matter concerned, and conduct such cross-examination as may be required for a full disclosures of the facts.
 - e) The presiding officer shall take into consideration the following factors in addition to any other relevant material prior to issuing a decision.
 - 1) Average length of time to complete a safety test.
 - 2) Average shop rate.
 - 3) Average hourly rates of pay for journeyman mechanics and certified safety testers.
 - 4) The current and/or propose rates and charges.

Section 446.504 Presiding Officer's Decision

After consideration of the evidence of record, the presiding officer may dismiss the petition in whole or in part, and enter an order to that effect. If he does not dismiss it in whole, he will issue and serve on the parties an order approving the rate(s) or change in rate(s) determined by the presiding officer to be just and reasonable. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law and discretion.

Section 446.505 Appeal

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A petitioner aggrieved by a presiding officer's decision and order issued under Section 446.504 may file an appeal with the Secretary. The appeal must be filed within ten days of service of the presiding officer's order. A decision by the Secretary is administratively final.

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 446.601 Notice

- a) Whenever the Department upon its own initiative, or upon verified complaint of any person, intends to convene a hearing for the purpose of requiring the operator of an Official Testing Station to prove that the rates filed by that operator are just and reasonable, the Department begins the proceeding by serving a Notice on the operator.
- b) The Notice required by paragraph (a) of this section shall include:
 - 1) A statement of the provision(s) of the law and regulations which the operator is believed to be violating;
 - 2) A statement of the factual allegation(s) upon which the Department relies in its belief that the rates and charges filed by this operator are unjust or unreasonable;
 - 3) A statement of the remedial action being sought by the Department;
 - 4) A statement of the operator's right to present written or oral explanations, information or any materials in answer to the allegations;
 - 5) A statement of the operator's right to request a hearing and the procedures for requesting a hearing.
- c) The Department may amend a notice issued under this Section at any time before entering of a final order. If an amendment includes any new material allegation of fact, the operator shall be given an opportunity to respond.

Section 446.602 Complaints

- a) Whenever any person intends to complain to the Department about the justness or

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reasonableness of any rate of charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, Springfield, Illinois 62794-9212.

- b) Each complaint shall include:
 - 1) the name, address and telephone number of the person making the complaint;
 - 2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;
 - 3) the name and, if known, the business address, of the operator against whom the person complains;
 - 4) A description or statement of the rate(s) about which the person complains;
 - 5) a statement setting forth in detail the specific facts and reasons why the person believes the rate(s) about which that person complains is unjust or unreasonable; and
 - 6) any information, document or other matters upon which the person relies.
- c) The facts asserted in any complaint must be sworn to by persons having knowledge thereof. Except under unusual circumstances, such persons should be those who will be available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.
- d) An original copy of the Complainant shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date thereof.

Section 446.603 Reply

- a) Within 20 days of the service of a notice issued under Section 446.601, the operator may:

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- 1) File with the Department a sworn statement by which the operator consents to withdraw the contested rate(s) filed by him and states that the operator will not charge any such rate(s) for the matters covered by that rate(s) until the operator files and has approved by the Department a new rate(s), and thereby close the case; or
 - 2) Request a hearing as provided in Section 446.604.
- b) The Director may extend the 20-day period for good cause shown.
- c) Failure of the operator to reply by taking one of the two actions described in paragraph (a)(1) of this Section within the period provided constitutes a waiver of his right to appear and contest the allegation and authorizes the Director, without further notice to the operator to find the facts to be as alleged in the notice and order the rate(s) in question to be voided.

Section 446.604 Request for Hearing

- a) If an operator elects to request a hearing, he shall submit a written request to the Director. The request must:
- 1) State the name and address of the operator and of the person signing the request if different from the operator;
 - 2) State with respect to each allegation whether it is admitted or denied; and
 - 3) State with particularity the issues to be raised by the operator at the hearing.
- b) After a request for hearing which complies with the requirements of paragraph (a) of this Section, the Director schedules a hearing within 60 days.
- c) The Director may grant extension of the time of the commencement of the hearing for good cause shown.

Section 446.605 Hearing

Hearings scheduled under Section 446.604 shall be governed by the provisions of Section

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446.503.

Section 446.606 Presiding Officer's Decision

After consideration of the evidence of record, the presiding officer may dismiss the notice in whole or in part and enter an order to that effect. If he does not dismiss it in whole, he will issue and serve on the parties an order declaring the rate(s) to be either unjust or unreasonable or both and further declaring the rate(s) to be void. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law and discretion.

Section 446.607 Appeal

Any party aggrieved by a presiding officer's decision and order issued under Section 446.606 may file an appeal with the Secretary. The appeal must be filed within ten days of service of the presiding officer's order. A decision by the Secretary is administratively final.

SUBPART G: MISCELLANEOUS PROVISIONS

Section 446.701 Discovery

Parties participating in hearings conducted under these Rules may obtain discovery pursuant to this Rule regarding any matter not privileged, which is relevant to the subject matter involved in the pending proceeding or appears reasonably calculated to lead to the discovery of admissible evidence, provided that discovery may be had only when the presiding officer, upon his own motion or upon a petition filed by a party, and upon good cause shown, shall have entered an order approving such use. A petition must be filed at least fifteen (15) days prior to the scheduled hearing date.

Section 446.702 Motions

- a) Any party to a proceeding may make an application to the presiding officer for an order in the form of a motion.
- b) Motions shall be in writing, shall state with particularity the grounds therefor and shall set forth the relief or order sought. The rules applicable to document specifications shall apply to all motions.

Section 446.703 Intervention

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- a) Any person may intervene by petition in a proceeding involving a petition for approval of a rate change or in a proceeding involving a complaint of unreasonable or unjust rates.
- b) A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.
- c) A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.
- d) When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Department. When a petition for leave to intervene is not tendered at the hearing, the original copy of the petition shall be submitted to the Department together with a certificate that service in accordance with Section 446.204 has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within ten days after service.
- e) Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervener and a party to the proceeding.

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- 1) Heading of the Part: Rates to be Charged by Official Testing Stations for Vehicles Other Than School Buses
- 2) Code Citation: 92 Ill. Adm. Code 454
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
454.10	Repeal
454.20	Repeal
454.30	Repeal
454.40	Repeal
454.50	Repeal
454.60	Repeal
454.70	Repeal
454.110	Repeal
454.120	Repeal
454.130	Repeal
454.140	Repeal
454.200	Repeal
454.210	Repeal
454.220	Repeal
454.230	Repeal
454.240	Repeal
454.250	Repeal
454.260	Repeal
454.300	Repeal
454.310	Repeal
454.320	Repeal
454.400	Repeal
454.410	Repeal
454.420	Repeal
454.430	Repeal
454.440	Repeal
454.500	Repeal
454.510	Repeal
454.520	Repeal
454.530	Repeal
454.540	Repeal
454.550	Repeal
454.560	Repeal

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454.600 Repeal
454.610 Repeal
454.620 Repeal

- 4) Statutory Authority: Implementing Section 13-106 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95 ½, par. 13-106) [625 ILCS 5/13-106] and Section 49.22 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 49.22) [20 ILCS 2705/49.22] and authorized by Section 16 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 16) [20 ILCS 5/16] and Section 1-65 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-65) [5 ILCS 100/1-65]
- 5) A complete description of the subjects and issues involved: The Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to replace it with a new Part, 92 Ill. Adm. Code 439, that will combine existing procedures and establish new procedures for determining rates to be charged for conducting safety tests of all vehicles, including school buses, at Illinois Official Testing Stations. The new Part 439 will consolidate, clarify and streamline the rate procedures for operators of Official Testing Stations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed repealer will have no effect on local municipalities.
- 12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

By U.S. Mail:

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Ms Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
PO Box 19212
Springfield, Illinois 62794-9212

217/785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms Christine Caronna-Beard, Rules Manager
Office of Chief Counsel
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This proposed repealer will not affect small businesses. Small business operators that conduct safety tests of vehicles at Official Testing Stations will be impacted by the new Part, 92 Ill. Adm. Code 439, published elsewhere in this issue of the *Illinois Register*.
- B) Reporting, bookkeeping or other procedures required for compliance: None

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- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006

The full text of this Proposed Repealer begins on the next page:

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 454

RATES TO BE CHARGED BY OFFICIAL TESTING STATIONS
FOR VEHICLES OTHER THAN SCHOOL BUSES [\(REPEALED\)](#)

SUBPART A: RULES OF GENERAL APPLICABILITY

Section

- 454.10 General Information
- 454.20 Information; Special Instructions
- 454.30 Communications and Pleadings
- 454.40 Definitions
- 454.50 Rules of Construction
- 454.60 Regulatory Dockets
- 454.70 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section

- 454.110 Typographical Specifications
- 454.120 Copies
- 454.130 Time
- 454.140 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section

- 454.200 General Requirements
- 454.210 Application for Rate Approval
- 454.220 Initial Application Review
- 454.230 Processing of Application
- 454.240 Withdrawal
- 454.250 Application for Rate Change
- 454.260 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

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Section	
454.300	General Requirements
454.310	Rates or Charges
454.320	Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL
OF DISALLOWED RATES AND APPEALS

Section	
454.400	Request for Hearing
454.410	Notice and Place of Hearings
454.420	Hearings
454.430	Presiding Officer's Decision
454.440	Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section	
454.500	Notice
454.510	Complaints
454.520	Reply
454.530	Request for Hearing
454.540	Hearing
454.550	Presiding Officer's Decision
454.560	Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section	
454.600	Discovery
454.610	Motions
454.620	Intervention

AUTHORITY: Implementing Section 13-106 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 13-106) [625 ILCS 5/13-106] and Section 49.22 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 49.22) [20 ILCS 2705/49.22] and authorized by Section 16 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 16) [20 ILCS 5/16] and Section 1-65 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991,

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ch. 127, par. 1001-65) [5 ILCS 100/1-65].

SOURCE: Adopted at 2 Ill. Reg. 26, p. 149, effective May 26, 1978; amended at 5 Ill. Reg. 12989, effective November 16, 1981; codified at 7 Ill. Reg. 2748; amended at 17 Ill. Reg. 19662, effective November 1, 1993; repealed at 31 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 454.10 General Information

- a) Scope of Rules. These rules prescribe the requirements of the Illinois Department of Transportation governing the rates to be charged for safety tests of second division vehicles other than school buses and prescribes the practices and procedures which shall govern all hearings conducted by the Department relating to rates charged by Official Testing Stations.
- b) Applicability. These rules apply to every operator of an Official Testing Station conducting safety tests of second division vehicles other than school buses, even though safety tests of school buses are conducted.
- c) References. These rules shall be referred to as the "Rules on Rates".

Section 454.20 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.

Section 454.30 Communications and Pleadings

- a) How addressed. All communication and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212. All communications should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his address, and the party he represents.

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- b) **Timely Filing Required.** All documents required or permitted to be filed under these Rules must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits, if any, for such filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if such document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.
- c) **Disposition of; When Defective.** In any proceeding when upon inspection the Department is of the opinion that a document tendered for filing does not comply with these Rules or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

Section 454.40 Definitions

As used in this Part:

"Commercial Vehicle Safety Section" means a section of the Bureau of Safety Programs of the Division of Traffic Safety of the Illinois Department of Transportation;

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its duly authorized agents or officers (Ill. Rev. Stat. 1991, ch. 95½, par. 13-100) [625 ILCS 5/13-100];

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation;

"Division" means the Division of Traffic Safety of the Illinois Department of Transportation;

"Illinois Vehicle Code" means the provisions of Chapter 95½ of the Illinois Revised Statutes [Chapter 625 of the Illinois Compiled Statutes];

"Official Testing Station" means all contiguous real and personal property which houses the testing lane(s) and all equipment and supplies relating to the vehicle safety test program;

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"Person" means any person as defined in Section 1-159 of the Illinois Vehicle Code;

"Rate" or "Charge" means the monetary charge to any person offering a second division vehicle or vehicles other than a school bus for a safety test pursuant to Section 13-106 of the Illinois Vehicle Code;

"Safety test" means the test required by Section 13-101 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 13-101) [625 ILCS 5/13-101];

"Second Division Vehicle" means those vehicles which are designed for carrying more than ten persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division registered as school buses (Ill. Rev. Stat. 1991, ch. 95½, par. 1-217) [625 ILCS 5/1-217];

"Secretary" means the Secretary of the Illinois Department of Transportation.

Section 454.50 Rules of Construction

- a) In these Rules unless the context requires otherwise:
 - 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular;
 - 3) Words imparting the masculine gender include the feminine.
- b) In these Rules, the word:
 - 1) "Shall" is used in an imperative sense;
 - 2) "Must" is used in an imperative sense;
 - 3) "Should" is used in a recommendatory sense;
 - 4) "May" is used in a permissive sense to state authority or permission to do

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the act described and the words "no person may *** " or "a person may not *** " means that no person is required, authorized or permitted to do the act described; and

- 5) "Includes" is used as a word of inclusion not limitation.

Section 454.60 Regulatory Dockets

- a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.
- b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

Section 454.70 Appearances

Any person either involved in or entitled to participate in proceedings may appear as follows:

- a) A natural person may appear in his own behalf or through counsel of his choice;
- b) A business, non-profit or governmental organization may appear by an officer, employee or representative, or may be represented by counsel of its choice;
- c) Any attorney appearing in a representative capacity shall file a written notice of appearance.

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section 454.110 Typographical Specifications

Except as otherwise provided, all documents shall be typewritten or reproduced from typewritten copy on unglazed white paper measuring 8½" x 11". Margins of at least one inch shall be allowed on the left and right margins. Reproduction of documents may be by any process provided the copies are clear and permanently legible. Typewritten documents must be double-spaced, except that long quotations shall be single-spaced and indented. Lengthy documents should be accompanied by an index. Failure to observe these specifications may result in rejection.

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Section 454.120 Copies

Except as otherwise provided in these rules, an original copy of all documents, including complaints, motions, petitions and notices of appeal, shall be filed with the Director and shall bear the docket number and the title of the proceeding in connection with which they are filed.

Section 454.130 Time

- a) Computation. In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is Saturday, Sunday, or a legal holiday in the State of Illinois, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday. This rule shall apply to the measurement of time forward, as well as backward from a specified date.
- b) When the date designated for filing briefs or other documents is a Saturday, Sunday or a legal holiday in the State of Illinois, that date shall be extended to the next day which is neither a Saturday, Sunday, nor a legal holiday in the State of Illinois. A half holiday shall not be considered as a holiday.
- c) Modification. Any time period may, upon request and for good and sufficient cause, be modified by the Director in his discretion. Request for extensions of modifications of time must be served on all parties at the same time and by the same method of communication as service is made on the Department. Only the original of the request need be filed with the Department.

Section 454.140 Service

- a) Each order, notice, or other document required to be served under these Rules shall be served personally or by first class, registered or certified mail, except as otherwise provided.
- b) Service upon a person's duly authorized representative constitutes service upon that person.
- c) Service by registered or certified mail is complete upon mailing. An official

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United States Postal Service receipt for registered or certified mail constitutes prima facie evidence of service.

- d) One copy of each order, notice or other document must be served on each party. Service on any party shall be by the same means employed in serving all other parties.

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 454.200 General Requirements

- a) No operator of an Official Testing Station shall make, establish, implement, collect or otherwise enforce any rate or charge or schedule of rates or charges for performing a safety test for any second division vehicle other than a school bus unless that rate or charge or schedule of rates or charges has been made or established in accordance with the provisions of this Part.
- b) No operator of an Official Testing Station shall change any rate or charge or schedule of rates or charges unless that change has been made in accordance with the provisions of this Part.
- c) No applicant for an Official Testing Station permit shall be issued that permit unless the applicant, in accordance with the provisions of this Part, has filed with the department a proposed schedule of rates and charges and the Department has approved that schedule.

Section 454.210 Application for Rate Approval

- a) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by him for performing a safety test on vehicles other than school buses and for which he seeks the approval of the Department. Each application made under this subsection shall be filed by the applicant after he submits his application for a station permit pursuant to 92 Ill. Adm. Code 451, "Administrative Requirements for Official Testing Stations" but prior to the issuance of the station permit to him by the Department. The applicant shall submit his proposed schedule on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.

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- b) A schedule of rates and charges filed with the Department under subsection (a) shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 13-109) [625 ILCS 5/13-109] which amount shall not exceed the fee paid by the operator to the Department for the Certificate.

Section 454.220 Initial Application Review

In the case of an application for rate approval under Section 454.210, the Section reviews the application to determine whether it is complete and conforms to the requirements of this Part. This determination will be made within 15 days of the receipt of the application. If the application is not returned to the applicant by the end of that period, it will be processed as provided in Section 454.230. If an application is returned, the applicant will be informed in what respects the application is incomplete.

Section 454.230 Processing of Application

- a) Any and all rates and charges to be made by an operator of an Official Testing Station for performing a safety test on second division vehicles other than school buses shall be approved by the Department prior to the rates and charges becoming effective.
- b) After an application for rate approval is determined to be complete, the Section processes the application. No public hearing, argument, or other formal proceeding is held directly on an application filed under Section 454.210.
- c) If the Section determines that the rates and charges proposed are not just and reasonable, it denies the application and notifies the applicant in writing, together with the reasons therefor.
- d) If the Section determines that the rates and charges proposed are just and reasonable, it grants the application and notifies the applicant in writing.

Section 454.240 Withdrawal

- a) An applicant may withdraw an application for rate approval at any time prior to it being finally determined.

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- b) Withdrawal of an application does not authorize the removal of any related records from the docket or files of the Division.

Section 454.250 Application for Rate Change

- a) Any operator of an Official Testing Station who desires to change his schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made by him for performing a safety inspection on vehicles other than school buses.
- b) Applications under subsection (a) shall be submitted on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.
- c) Applications under this Section shall initially be reviewed as provided in Section 454.220 and processed as provided in Section 454.230.
- d) Withdrawals of applications under this Section shall be governed by Section 454.240.
- e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Commercial Vehicle Safety Section, an applicant may file a written petition under Section 454.260. All hearings scheduled under this subsection shall be conducted in accordance with the provisions of Sections 454.400 through 454.440.

Section 454.260 Appeal

- a) If a proposed rate or charge or proposed change in rates or charges is disallowed or disapproved by the Section, an applicant may file, within 15 days after the applicant is notified of the disallowance or disapproval, a written petition with the Director for a hearing seeking approval of its proposed rates or charges or proposed change in rates or charges.
- b) The petition for approval of disallowed rates must:
 - 1) State the name and address of the person making the request and of the

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Official Testing Station involved;

- 2) Include a statement of ownership of the Official Testing Station, together with the date said ownership commenced;
 - 3) Include a statement setting forth the current rates charged by the lane operator;
 - 4) Include a statement setting forth with particularity the reasons why the lane operator seeks to amend the rates currently being charged;
 - 5) Include a statement of the new rates for which the petitioner seeks approval;
 - 6) Include, if applicable, a statement relating to the necessity of obtaining a change in the rates being charged; and
 - 7) State or include any other matters upon which the petitioner bases his request for a hearing.
- c) All hearings scheduled under this Section shall be conducted in accordance with the provisions of Sections 454.400-454.440.

SUBPART D: LEVEL OF RATES OR CHARGES

Section 454.300 General Requirements

- a) Any and all rates or charges made by an operator of an Official Testing Station for performing a safety test for a second division vehicle other than a school bus shall be just and reasonable.
- b) A rate or charge is "just and reasonable" if it is the same, or nearly the same, as the prevailing rate or charge for the same or similar test made in the community where the Official Testing Station is located.

Section 454.310 Rates or Charges

The following rates or charges for safety inspections of vehicles other than school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the

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counties indicated. Any existing charge or rate which has previously been approved by the Department is acceptable. An application for a future charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Commercial Vehicle Safety Section, an applicant may appeal the disapproval to the Director under Section 454.260. The following rates or charges do not include the Certificate of Safety fee.

Region	Counties	RATES	
		SWA*	DWA**
1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	\$6.20	\$7.00
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	\$5.15	\$5.80
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	\$4.45	\$5.00
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	\$5.25	\$5.90
5	DeWitt, Logan, Macon, McLean	\$3.95	\$4.45
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	\$3.50	\$3.95
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermillion	\$4.25	\$4.75
8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	\$4.35	\$4.95
9	Madison, St. Clair	\$5.45	\$6.10
10	Jackson, Monroe, Perry, Randolph, Union, Washington	\$4.10	\$4.60
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	\$3.50	\$3.95

* SWA – Single wheel axle

** DWA – Double wheel axle

Section 454.320 Enforcement

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- a) The Department upon its own initiative or upon verified complaint of any person may require the operator of an Official Testing Station to appear at a hearing and prove that the rates or charges so filed with the Department are just and reasonable.
- b) The procedure in Sections 454.500-454.560 shall govern the proceedings under paragraph (a) of this Section.

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL
OF DISALLOWED RATES AND APPEALS**Section 454.400 Request for Hearing**

- a) If the Department disallows any or all rates or charges set forth in a schedule which an operator has filed with the Department pursuant to Section 13-106 of the Illinois Vehicle Code and these Rules or any application of an operator to change any or all of those rates or charges, the operator may request a hearing upon notification of that disallowance, as provided in Section 454.260.
- b) After a petition for hearing, which complies with the requirements of Section 454.260 is received, the Director schedules a hearing for the earliest practicable date.
- c) The Director may grant extensions of the time of the commencement of the hearing for good cause shown.

Section 454.410 Notice and Place of Hearings

- a) Hearing on petitions filed by operators of Official Testing Stations in Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will, and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators of any other country shall be held at the Department's

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offices located at 3215 Executive Park Drive, Springfield, Illinois.

- b) The Department shall, as soon as possible, give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel. In the case of a petition for approval of rate change, the Department shall also cause to be published a Notice of the Petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.

Section 454.420 Hearings

- a) When a hearing is requested and scheduled under 92 Ill. Adm. Code 454.400, a presiding officer designated by the Secretary convenes and presides over the hearing. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim.
- b) The presiding officer may:
 - 1) Administer oaths and affirmation;
 - 2) Adopt procedures for the submission of evidence in written form;
 - 3) Rule on offers of proof and receive relevant evidence;
 - 4) Examine witnesses at the hearing;
 - 5) Convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;
 - 6) Hold conferences for settlement, simplification of the issues, or any other proper purpose; and
 - 7) Take any other action authorized by or consistent with the provisions of this Part and permitted by law which may expedite the hearing or aid in the disposition of an issue raised therein.
- c) The petitioner has the burden of proving the facts alleged in Petition for Approval of Disallowed Rate, or Petition for Approval of rate change, including proof that the disallowed rate(s) is just and reasonable.

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- d) The petitioner may offer such relevant information and testimony may be necessary to fully inform the presiding officer as to the matter concerned, and conduct such cross-examination as may be required for a full disclosure of the facts.

Section 454.430 Presiding Officer's Decision

After consideration of the evidence of record, the presiding officer may dismiss the petition in whole or in part, and enter an order to that effect. If he does not dismiss it in whole, he will issue and serve on the parties an order approving the rate(s) or change in rate(s) determined by the presiding officer to be just and reasonable. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law and discretion.

Section 454.440 Appeal

A petitioner aggrieved by a presiding officer's decision and order issued under Section 454.430 may file an appeal with the Secretary. The appeal must be filed within ten days of service of the presiding officer's order. A decision by the Secretary is administratively final.

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 454.500 Notice

- a) Whenever the Department upon its own initiative, or upon verified complaint of any person intends to convene a hearing for the purpose of requiring the operator of an Official Testing Station to prove that the rates filed by that operator are just and reasonable, the Department begins the proceeding by serving a Notice on the operator.
- b) The Notice required by paragraph (a) of this Section shall include:
- 1) A statement of the provision(s) of the law and regulations which the operator is believed to be violating;
 - 2) A statement of the factual allegation(s) upon which the Department relies in its belief that the rates and charges filed by this operator are unjust or unreasonable;

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- 3) A statement of the remedial action being sought by the Department;
 - 4) A statement of the operator's right to present written or oral explanations, information or any materials in answer to the allegation;
 - 5) A statement of the operator's right to request a hearing and the procedures for requesting a hearing.
- c) The Department may amend a notice issued under this Section at any time before entering of a final order. If an amendment includes any new material allegation of fact, the operator shall be given an opportunity to respond.

Section 454.510 Complaints

- a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate or charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Bureau of Safety Programs, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212.
- b) Each Complaint shall include:
 - 1) the name, address and telephone number of the person making the complaint;
 - 2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;
 - 3) the name and if known the business address, of the operator against whom the person complains;
 - 4) A description or statement of the rate(s) about which the person complains;
 - 5) a statement setting forth in detail the specific facts and reasons why the person believes the rate(s) about which that person complains is unjust or unreasonable; and

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- 6) any information, document or other matters upon which the person relies.
- c) The facts asserted in any complaint must be sworn to by persons having knowledge thereof. Except under unusual circumstances, such persons should be those who will be available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.
- d) An original copy of the Complaint shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date thereof.

Section 454.520 Reply

- a) Within 20 days of the service of a notice issued under Section 454.500, the operator may:
 - 1) File with the Department a sworn statement by which the operator consents to withdraw the contested rate(s) filed by him and states that the operator will not charge any such rate(s) for the matters covered by that rate(s) until the operator files and has approved by the Department a new rate(s), and thereby close the case; or
 - 2) Request a hearing as provided in Section 454.530.
- b) The Director may extend the 20-day period for good cause shown.
- c) Failure of the operator to reply by taking one of the two actions described in paragraph (a) of this Section within the period provided constitutes a waiver of his right to appear and contest the allegations and authorizes the Director, without further notice to the operator to find the facts to be as alleged in the notice and order the rate(s) in question to be voided.

Section 454.530 Request for Hearing

- a) If an operator elects to request a hearing, he shall submit a written request to the Director. The request must:
 - 1) State the name and address of the operator and of the person signing the request if different from the operator;

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- 2) State with respect to each allegation whether it is admitted or denied; and
 - 3) State with particularity the issues to be raised by the operator at the hearing.
- b) After a request for hearing which complies with the requirements of paragraph (a) of this Section, the Director schedules a hearing for the earliest date.
 - c) The Director may grant extension of the time of the commencement of the hearing for good cause shown.

Section 454.540 Hearing

Hearings schedules under Section 454.530 shall be governed by the provisions of Section 454.420.

Section 454.550 Presiding Officer's Decision

After consideration of the evidence of record, the presiding officer may dismiss the notice in whole or in part and enter an order to that effect. If he does not dismiss it in whole, he will issue and serve on the parties an order declaring the rate(s) to be either unjust or unreasonable or both and further declaring the rate(s) to be void. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law and discretion.

Section 454.560 Appeal

Any party aggrieved by a presiding officer's decision and order issued under Section 454.550 may file an appeal with the Secretary. The appeal must be filed within ten days of service of the presiding officer's order. The filing of an appeal stays the effectiveness of the order. A decision by the Secretary is administratively final.

SUBPART G: MISCELLANEOUS PROVISIONS

Section 454.600 Discovery

Parties participating in hearings conducted under these Rules may obtain discovery pursuant to this Rule regarding any matter not privileged, which is relevant to the subject matter involved in the pending proceeding or appears reasonably calculated to lead to the discovery of admissible

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evidence; provided that discovery may be had only when the presiding officer, upon his own motion or upon a petition filed by a party, and upon good cause shown, shall have entered an order approving such use. Such petitions must be filed in sufficient time to allow for the filing of replies and for consideration by the presiding officer without requiring the postponement of any established date for hearing.

Section 454.610 Motions

- a) Any party to a proceeding may make an application to the presiding officer for an order in the form of a motion.
- b) Motions shall be in writing, shall state with particularity the grounds therefor and shall set forth the relief or order sought. The rules applicable to document specifications shall apply to all motions.

Section 454.620 Intervention

- a) Any person may intervene by petition in a proceeding involving a petition for approval of a rate change or in a proceeding involving a complaint of unreasonable or unjust rates.
- b) A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.
- c) A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.
- d) When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Department. When a petition for leave to intervene is not tendered at the hearing, the original copy of the petition shall be submitted to the Department together with a certificate that service in accordance with Section 454.110 has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within ten days after

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service.

- e) Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted, the petitioner thereby becomes an intervener and a party to the proceeding.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Children's Community-Based Health Care Center Program Code
- 2) Code Citation: 77 Ill. Adm. Code 260
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
260.1000	Amendment
260.1050	Amendment
260.1100	Amendment
260.1200	Amendment
260.1300	Amendment
260.1400	Amendment
260.1800	Amendment
260.2000	Amendment
260.2200	Amendment
260.2400	Amendment
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) Effective Date of Rulemaking: February 2, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: August 18, 2006; 30 Ill. Reg. 13611
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No changes were made in response to comments received during the First Notice or public comment period.

The following change was made in response to comments and suggestions of JCAR:

1. In line 7, strike "DEMONSTRATION".

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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: Part 260 (Children's Respite Care Center Demonstration Program Code) establishes licensing requirements for Children's Respite Care Centers. The name of the centers (and the title of Part 260) is being changed to "Children's Community-Based Health Care Center Program Code", with "Demonstration" being struck at the request of the Joint Commission on Administrative Rules. Throughout Part 260, "Respite" is struck out and "Community-Based Health" is inserted. "Demonstration" will be removed in a future rulemaking, as per an agreement between the Department and JCAR.

In Section 260.1000 (Definitions), definitions for "Children with Special Health Care Needs," "Diagnostic Studies," "Medical Day Care," "Technology Dependent Children," and "Weekend Camps" are being added. Other definitions are being amended to conform to Public Act 93-402, which amended the Alternative Health Care Delivery Act [210 ILCS 3].

Section 260.1050 (Incorporated and Referenced Materials) is being amended to add the Abused and Neglected Child Reporting Act [325 ILCS 5] and to update the National Fire Protection Association standard.

Section 260.1100 (Demonstration Program Elements) is being amended to strike "respite" and insert "community-based health."

Section 260.1200 (Application for and Issuance of a License to Operate a Children's Respite Care Center Model) is being amended to strike "respite" and insert "community-based health."

Section 260.1300 (Obligations and Privileges of Children's Respite Care Center Models) is being amended to change the Section heading and to add statutory language regulating

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who is eligible for care in a children's community-based health care center and statutory language spelling out the kind of care offered in the centers.

Section 260.1400 (Inspections and Investigations) is being amended to strike "respite" and insert "community-based health."

Section 260.1800 (Admission Practices) is being amended to change the Section heading to "Admission and Participation Practices" and to add language, authorized by statute, regulating transitions to home settings; criteria for medical day care; weekend camps; and diagnostic studies.

Section 260.2000 (Child Care Services) is being amended to limit the number of allowable children in a community-based health care center to 12, in order to conform to the Act.

Section 260.2200 (Personnel) is being amended to add language requiring centers to adhere to the Abused and Neglected Child Reporting Act [325 ILCS 5].

Section 260.2400 (Physical Plant) is being amended to match the National Fire Protection Association standard updated in Section 260.1050.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 260

CHILDREN'S COMMUNITY-BASED HEALTH~~RESPIRE~~ CARE CENTER
~~DEMONSTRATION~~ PROGRAM CODE

Section

260.1000	Definitions
260.1050	Incorporated and Referenced Materials
260.1100	Demonstration Program Elements
260.1200	Application for and Issuance of a License to Operate a Children's <u>Community-Based Health</u> Respite Care Center Model
260.1300	Obligations and Privileges of Children's <u>Community-Based Health</u> Respite Care Center Models
260.1400	Inspections and Investigations
260.1500	Notice of Violation and Plan of Correction
260.1600	Adverse Licensure Action
260.1700	Policies and Procedures
260.1750	Health Care Worker Background Check
260.1800	Admission <u>and Participation</u> Practices
260.1900	Child's Rights
260.2000	Child Care Services
260.2100	Medication Administration
260.2200	Personnel
260.2300	Food Service
260.2400	Physical Plant
260.2500	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 22 Ill. Reg. 3899, effective February 20, 1998; amended at 24 Ill. Reg. 14016, effective August 31, 2000; amended at 26 Ill. Reg. 11974, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7937, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18070, effective November 12, 2003; amended at 30 Ill. Reg. 883, effective January 9, 2006; amended at 31 Ill. Reg. 3008, effective February 2, 2007.

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Section 260.1000 Definitions

The following terms shall have the meanings ascribed to them here whenever the term is used in this Part.

Abuse – any physical or mental injury or sexual assault inflicted on a patient other than by accidental means in a ~~center~~ facility. Abuse includes:

Abuse means:

Physical abuse refers to the infliction of injury on a patient that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to patients or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Act – the Alternative Health Care Delivery Act [210 ILCS 3].

Affiliate —means:

With respect to a partnership, each partner thereof;

With respect to a corporation, each officer, director and stockholder

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thereof;

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Board – *the State Board of Health.* (Section 10 of the Act)

Charitable Care – the intentional provision of free or discounted services to persons who cannot afford to pay.

Children with Special Health Care Needs - those children who have or are at increased risk for chronic physical ailments who require health and related services of a type or amount beyond that required by children generally.

Children's Representative – a person authorized by ~~the~~ law to act on behalf of the child.

Children's Community-Based HealthRespite Care Center or Center – *a designated site that provides nursing care, clinical support services, and therapies for a period of one to 14 days for short-term stays and one to 120 days to facilitate transitions to home or other appropriate settingsrespite for medically fragile children, technology dependent children, and children with special health care needs who are deemedfrail, ~~technologically~~ clinically stable by a physician and are younger than 22 years of age. This care is to be provided in a home-like environment that serves no more than 12 children at a time. ~~children, up to age 18, for a period of one to 14 days in a home-like environment that serves no more than 10 children at a time.~~ (Section 35(3) of the Act)*

Demonstration Program or Program – *a program to license and study alternative health care models authorized under the Act.* (Section 10 of the Act)

Department – *the Illinois Department of Public Health.* (Section 10 of the Act)

Diagnostic Studies - any analytic tests, including, but not limited to, heart monitoring or sleep tests, used in identifying the nature or cause of an illness, disorder or problem that are typically done in the home and that are conducted in

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a Children's Community-Based Health Care Center for children with special health care needs.

Dietitian~~Dietician~~ – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30]. is eligible for registration by the American Dietetic Association; or has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Director – the *Director of Public Health* or designee. (Section 10 of the Act)

Hospital – a facility licensed pursuant to the Hospital Licensing Act [210 ILCS 85].

Inspection – any survey, evaluation or investigation of the Children's Community-Based Health~~Respite~~ Care Center Model's compliance with the Act and this Part by the Department or designee.

Licensee – the person or entity licensed to operate the Children's Community-Based Health~~Respite~~ Care Center Model.

Medical Day Care - care provided by a Children's Community-Based Health Care Center for children with special health care needs for no more than 12 in 24 hours, in accordance with Section 260.1800(c) of this Part.

Medically Fragile Children - children who are medically stable but require skilled nursing care, specialized therapy, and specialized medical equipment and supplies to enhance or sustain their lives. "Medically fragile children" may include, but is not limited to, children who have neuro-muscular disease, heart disease, cancer, seizure disorder, spina bifida, chronic lung disease, or other medical conditions that threaten the child's ability to thrive and to survive without proper medical care.

Neglect – a failure in a center~~facility~~ to provide adequate medical or personal care or maintenance, resulting~~which failure results~~ in physical or mental injury to a patient or in the deterioration of a patient's physical or mental condition.
Neglect~~This~~ shall include any situation in which~~allegation where~~:

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~~the alleged~~ failure to provide adequate medical or personal care or maintenance causes ~~causing~~ injury or deterioration that is ongoing or repetitious; or

failure to provide adequate medical or personal care or maintenance results in a patient requiring ~~required~~ medical treatment ~~as a result of the alleged failure~~; or ~~the~~

failure to provide adequate medical or personal care or maintenance causes ~~is alleged to have caused~~ a noticeable negative impact on a patient's health, behavior or activities for more than 24 hours.

Physician – a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60].

Registered Nurse – a person who is licensed as a registered professional nurse under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65].

Substantial Compliance – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 260.1200.

Technology Dependent Children - medically fragile children who require the constant or regular intermittent use of technology to meet their medical needs. This may include, but is not limited to, devices that assist or support breathing, monitor bodily functions, or provide nutrition.

Weekend Camps - a planned program for medically fragile children, technology dependent children, or children with special health care needs that consists typically of Friday afternoon through Sunday evening.

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1050 Incorporated and Referenced Materials

- a) The following Illinois statutes and administrative rules of the Department of Public Health are referenced in this Part:

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- 1) State of Illinois Statutes:
 - A) Hospital Licensing Act [210 ILCS 85]
 - B) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - C) Medical Practice Act of 1987 [225 ILCS 60]
 - D) ~~Illinois~~ [Nursing and Advanced Practice Nursing Act of 1987 \[225 ILCS 65\]](#) |
 - E) [Dietetic and Nutrition Services Practice Act \[225 ILCS 30\]](#) |
 - F) [Abused and Neglected Child Reporting Act \[325 ILCS 5\]](#) |
 - 2) Department of Public Health Administrative rules:
 - A) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - B) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - C) Food Service Sanitation Code (77 Ill. Adm. Code 750)
 - D) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - E) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - F) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - G) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
- b) The following private and professional association standards are incorporated in this Part:
- National Fire Protection Association (NFPA) standard No. 101: Life Safety Code, ~~2000~~[1994](#) edition, chapter 23, "Existing Residential Board and Care Occupancies, Impractical", which may be obtained from the |

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National Fire Protection Association, 1 Batterymarch Park, Quincy,
Massachusetts [02169-747102269](tel:02169-747102269).

- c) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any ~~amendments or editions~~additions or deletions subsequent to the date specified.

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1100 Demonstration Program Elements

- a) The Children's Community-Based Health~~Respite~~ Care Center Demonstration Program shall be reviewed annually by the Board to determine if it should continue operation for a period of up to five years, commencing with February 20, 1998~~the effective date of this Part~~.
- b) A Children's Community-Based Health~~Respite~~ Care Center Model shall be licensed pursuant to this Part to be considered a participant in the Program.
- c) Applications for participation in the Program shall be considered only when a vacancy exists in one of the allocated Program slots for the relevant geographic area.
- d) *At the midpoint and end of the Program, the Board shall evaluate and make recommendations to the Governor and the General Assembly, through the Department, regarding the Program, in accordance with Section 20(b) of the Act.*
- e) *The Department shall deposit all application fees, renewal fees and fines collected under the Act and this Part into the Regulatory Evaluation and Basic Enforcement Fund in the State Treasury. (Section 25(d) of the Act)*

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1200 Application for and Issuance of a License to Operate a Children's Community-Based Health~~Respite~~ Care Center Model

- a) Applications for a license to operate a Children's Community-Based Health~~Respite~~ Care Center Model shall be in writing on forms provided by the Department. The application shall be made under oath and shall contain the

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following:

- 1) Proof of a Certificate of Need to establish and operate a Children's [Community-Based HealthRespite](#) Care Center Model issued by the Health Facilities Planning Board under the Illinois Health Facilities Planning Act [20 ILCS 3960];
 - 2) The name of the proposed Model;
 - 3) The address of the proposed Model;
 - 4) A precise description of the site of the proposed Model;
 - 5) The maximum occupancy of the Model;
 - 6) The name and address of the registered agent or other individual authorized to receive Service of Process for the Model [licensee](#) license;
 - 7) The name of the person or persons under whose management or supervision the [center](#) facility will be operated;
 - 8) Documentation of compliance with Section 260.2300 of this Part; and
 - 9) The Model's admission policies and procedures in accordance with Section 260.1800 of this Part.
- b) An application for initial licensure shall be accompanied by an application fee of \$500 plus \$100 for each bed.
 - c) Upon receipt and review of a complete application for licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.
 - d) If the proposed Model is found to be in substantial compliance with the Act and this Part, the Department shall issue a license for a period of one year. The license shall not be transferable; it is issued to the licensee and for the specific location and number of beds identified in the application.
 - e) An application for license renewal shall be filed with the Department 90 to 120 days prior to the expiration of the license, on forms provided by the Department.

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- 1) The renewal application shall comply with the requirements of subsections (a) and (b) of this Section; and
 - 2) Upon receipt and review of a complete application for license renewal, the Department may conduct a survey. The Department shall renew the license in accordance with subsection (d) of this Section.
- f) *The Department may issue a provisional license to any Children's [Community-Based HealthRespite](#) Care Center Model that does not substantially comply with the provisions of the Act and this Part:*
- 1) A provisional license may be issued only *if the Department finds that:*
 - A) *The Model has undertaken changes and corrections which upon completion will render the Model in substantial compliance with the Act; and*
 - B) *The health and safety of the patients in the Model will be protected during the period for which the provisional license is issued.*
(Section 30(c) of the Act)
 - 2) *The Department shall advise the applicant or licensee of the conditions under which the provisional license is issued, including:*
 - A) *The manner in which the Model fails to comply with the provisions of the Act;*
 - B) The changes and corrections that shall be completed;
 - C) *The time within which the necessary changes and corrections shall be completed* (Section 30(c) of the Act); and
 - D) The interim actions that are necessary to protect the health and safety of the patients.
- g) The Children's [Community-Based HealthRespite](#) Care Center Model license or provisional license shall be prominently displayed in an area accessible to the public.

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(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1300 Obligations and Privileges of Children's Community-Based HealthRespite Care Center Models

- a) Children's Community-Based HealthRespite Care Center Models shall, within 30 days after licensure, *seek certification under Titles XVIII and XIX of the federal Social Security Act. (Section 30(d) of the Act) Coverage for services provided by the Illinois Department of Healthcare and Family Services~~Public Aid~~ is contingent upon federal waiver approval and is provided only to Medicaid eligible clients participating in the Home and Community Based Services waiver designated in ~~section~~Section 1915(c) of the Social Security Act for medically frail and technologically dependent children.* (Section 35(3) of the Act)
- b) Children's Community-Based HealthRespite Care Center Models shall provide charitable care consistent with that provided by comparable health care providers in the geographic area. (Section 30(d) of the Act)
- c) Children's Community-Based Health Care Center services must be available through the model to all families, including those whose care is paid for through the Department of Healthcare and Family Services, the Department of Children and Family Services, the Department of Human Services, and insurance companies who cover home health care services or private duty nursing care in the home. (Section 35(3) of the Act)
- d)e) A licensed Children's Community-Based HealthRespite Care Center Model that continues to be in substantial compliance after the conclusion of the demonstration program shall be eligible for annual license renewals unless and until a different licensure program for that type of health care model is established by legislation. (Section 30(c) of the Act)
- e)d) Each Children's Community-Based HealthRespite Care Center Model location shall be ~~a facility~~ physically separate and apart from any other facility licensed by the Department of Public Health. (Section 35(3) of the Act)
- f)e) At a minimum, Children's Community-Based HealthRespite Care Center Models shall provide the following services:~~provide out of home~~ respite care; registered nursing or licensed practical nursing care;~~hospital to home training for families~~

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~~and caregivers; short-term~~ transitional care to facilitate home placement or other appropriate settings and reunite families; medical day care; weekend camps; and diagnostic studies typically done in the home setting ~~and training for foster care parents; and parent and family support groups~~. (Section 35(3) of the Act)

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1400 Inspections and Investigations

- a) *The Department shall perform licensure inspections of Children's Community-Based Health Respite Care Center Models, as deemed necessary, to ensure compliance with the Act and this Part. (Section 25(c) of the Act)*
- b) All centers~~facilities~~ to which this Part applies shall be subject to and shall be deemed to have given consent to all inspections by properly identified personnel of the Department, or by other such properly identified persons as the Department might designate. In addition, representatives of the Department shall have access to and may reproduce or photocopy any books, records and other documents maintained by the center~~facility~~ or the licensee to the extent necessary to carry out the Act and this Part.
- c) *The Department shall investigate an applicant or licensee whenever it receives a verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for the denial of an application for a license, refusal to renew a license, or suspension or revocation of a license. (Section 50 of the Act)*
- d) *The Department may also investigate an applicant or licensee on its own motion or based upon complaints received by mail, telephone or in person. (Section 50 of the Act)*

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.1800 Admission and Participation Practices

- a) The center~~facility~~ shall establish admission criteria for short-term stays that provide for:
 - 1) The admission of children for no more than 14 days;

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- 2) The admission of children whose service plan can be met by the center facility; and
 - 3) Nondiscrimination toward~~The nondiscrimination of~~ children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- b) To facilitate transitions to home or other appropriate settings, the center shall establish admission criteria that provide for:
- 1) The admission of children for no more than 120 days;
 - 2) The admission of children whose service plan can be met by the center; and
 - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- c) The center shall establish participation criteria for medical day care that provide for:
- 1) The participation of children for no more than 12 hours in 24 hours;
 - 2) The participation of children whose service plan can be met by the center; and
 - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- d) The center shall establish participation criteria for weekend camps that provide for:
- 1) The participation of children whose service plan can be met by the center; and

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- 2) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- e) The center shall establish criteria for diagnostic studies that provide for:
- 1) Conducting only those diagnostic studies ordered by a physician and that are typically conducted in the home;
 - 2) Meeting all provisions for short-term stays, in accordance with subsection (a), if children are admitted overnight;
 - 3) The participation of children whose service plan can be met by the center; and
 - 4) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- f) At the time each child is admitted, the licensee must assure that the center facility has conducted an assessment and has a service plan to meet the child's needs. A service plan shall consist of at least the following:
- 1) Provided by the parent or child's representative:
 - A) a description of the child's usual routine,
 - B) the child's food preferences,
 - C) the child's allergies, if any,
 - D) instructions for the child's personal care,
 - E) information on the child's educational program, if applicable,
 - F) an emergency phone number where the parents, guardian or other responsible person can be contacted during the child's stay, and
 - G) any other information that will help the child's stay to be safe and

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enjoyable.

- 2) Provided by a physician:
 - A) medication orders, if any,
 - B) treatments, if any,
 - C) nursing orders, if any,
 - D) any activity restrictions,
 - E) documentation of the child's current immunization status, [and](#)
 - F) any other information that will help the child's stay to be safe and enjoyable.

~~g)e)~~ Only those children shall be admitted [or served](#) for whom the ~~center~~[facility](#) has the trained personnel, equipment, and supplies to meet the service plan.

~~h)d)~~ A personal physician shall be identified for each child admitted. The service plan shall document the method for contacting this physician at any time.

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.2000 Child Care Services

~~a)~~ [No more than 12 children shall be served at a time.](#)

~~b)a)~~ The licensee shall provide services as necessary to implement and support the child's service plan and overall needs, including provisions for:

- 1) Case management;
- 2) Fostering maximum independence of the child; and
- 3) Protection of the child's rights, privacy and dignity.

~~c)b)~~ The licensee shall have one or more transfer agreements with hospitals to provide

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emergency care to children.

- d)e) The licensee shall provide recreational and leisure activities for children during their stay.
- e)d) A written summary of the child's stay shall be sent home with each child. The summary shall contain documentation of any extreme (positive or negative) occurrences and any information that will increase continuity of services.
- f)e) All information related to the child, the child's representative or the child's service plan is confidential and shall be accessible only to those individuals who need the information to assure appropriate service delivery.

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.2200 Personnel

- a) Each center facility shall develop and maintain written personnel policies, that which are followed in the operation of the center facility.
- b) The center shall establish policies to screen all current and prospective employees and volunteers that shall include at least the following:
 - 1) Conduct a check of the Department of Children and Family Services (DCFS) Central Registry, in a form and a manner prescribed by DCFS.
 - 2) Conduct a check of the Sex Offender Registry in a form and a manner prescribed by the Illinois State Police (ISP).
 - 3) Maintain records of these checks in the employee's personnel file or the volunteer's file.
- c) The center shall define in policy whether individuals with findings on the DCFS Central Registry will be eligible for hire or to volunteer and, if so, the Center shall define the level of supervision that will be provided.
- d) All employees and volunteers shall be considered mandated reporters as defined in the Abused and Neglected Child Reporting Act.

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- 1) Reports of suspected child abuse or neglect shall be immediately reported to the DCFS State Central Registry (1-800-25A-BUSE) or local law enforcement.
 - 2) Reports of suspected child abuse or neglect shall be immediately reported to the Department of Public Health's Central Complaint Registry (1-800-252-4343).
 - 3) The center shall provide orientation to current staff and volunteers within 30 days after September 30, 2006 regarding their responsibilities under the Abused and Neglected Child Reporting Act.
 - 4) The center shall provide orientation to new staff and volunteers within 14 days after the first day of employment or volunteering.
 - 5) This orientation shall include, at least, definitions of what constitutes abuse and neglect, the individual's responsibility under the Abused and Neglected Child Reporting Act, and the center's policy on reporting abuse and neglect.
- ~~e)b~~ Each employee shall have an initial health evaluation, which shall be used to ensure that employees are not placed in positions that would pose undue risk of infection to themselves, other employees, children or visitors.
- 1) The initial health evaluation shall be completed no more than 30 days prior to or 30 days after the employee's first day of employment.
 - 2) The initial health evaluation shall include a health inventory from the employee, including an evaluation of the employee's immunization status.
 - 3) The initial health evaluation shall include tuberculin testing in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- ~~f)e~~ The licensee shall provide adequate, properly trained and supervised staff to meet each child's service plan.
- ~~g)d~~ The licensee shall designate a centerfacility manager.
- ~~h)e~~ There shall be at least one registered nurse at the centerfacility at all times that a

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child is present. At least one other staff person shall be present at the [center facility](#) at all times that a child is present.

- ~~i)f~~ The [center facility](#) shall have a medical director who is a physician with expertise in chronic diseases of children. The medical director shall have responsibilities for reviewing medical protocols, resolving issues with children's personal physicians and providing medical advice when a child's personal physician is not available.
- ~~j)g~~ The licensee shall define, through job descriptions, minimum education and experience requirements for all staff, consultants and contract staff providing services to the Children's [Community-Based Health Respite](#) Care Center Model.
- ~~k)h~~ The licensee shall provide an initial orientation and routine, pertinent training to all staff. This training may include return demonstration, one-on-one training, small group exercises or lecture. All training shall be documented with:
- 1) date;
 - 2) instructors;
 - 3) short description of content; and
 - 4) participants' written and printed signatures.
- ~~l)i~~ Prior to employing any individual in a position that requires a State license, the licensee shall contact the Illinois Department of [Financial and Professional Regulation](#) ~~Division of Professional Regulation~~ to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.
- ~~m)j~~ The licensee shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

Section 260.2400 Physical Plant

- a) Buildings shall meet the requirements established in the National Fire Protection

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Association Standard 101, Life Safety Code, ~~2000~~1994 edition, Chapter 23, "Existing Residential Board and Care Occupancies, Impractical", and other referenced chapter requirements.

- b) Buildings shall be only one story in height, at grade level, or if a building has multiple stories, children shall be served only on the grade level~~main~~ story.
- c) Children over six years of age occupying the same bedroom shall be of the same gender unless the children are siblings.
- d) An individual shall not need to go through a child's bedroom to reach any other area of the building.
- e) The center~~facility~~ shall be kept in a clean, safe, and orderly condition and in good repair.
 - 1) Electrical, mechanical, heating/air conditioning, fire protection and sewage disposal systems shall be maintained.
 - 2) Furnishings and furniture shall be maintained in a clean, safe condition.
 - 3) Attics, basements, stairways, and similar areas shall be kept free of accumulation of refuse, newspapers, boxes, and other items.
 - 4) Bathtubs, shower stalls and lavatories shall not be used for janitorial, laundry or storage purposes.
 - 5) All cleaning compounds, insecticides and ~~all~~ other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms.
- f) Every center~~facility~~ shall have an effective means of supplying clean linen.
 - 1) Clean linen shall be protected from contamination during handling, transport and storage.
 - 2) Soiled linen shall be handled, transported and stored in a manner that protects individuals and the environment from contamination. Soiled diapers shall be placed in special diaper receptacles immediately after removal from the patient.

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- g) Each child shall be provided with a bed that meets his/her developmental needs and size.
- h) The water supply shall comply with all applicable State codes and local ordinances. Each center~~facility~~ shall be served by:
- 1) Water from a municipal water system; or
 - 2) A water supply that complies with the Department's rules titledentitled ~~"Drinking Water Systems Code"~~ (77 Ill. Adm. Code 900); or
 - 3) A water supply that complies with the Department's rules titledentitled ~~"Public Area Sanitary Practice Code"~~ (77 Ill. Adm. Code 895).
- i) All sewage and liquid wastes shall be discharged into a public sewage disposal system; or shall be collected, treated, and disposed of in a private sewage disposal system that is designed, constructed, maintained and operated in accordance with the Department's rules entitled titledentitled ~~"Private Sewage Disposal Code"~~ (77 Ill. Adm. Code 905).

(Source: Amended at 31 Ill. Reg. 3008, effective February 2, 2007)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Numbers:

147.125	Amendment
147.150	Amendment
147.175	Amendment
147.200	Amendment
147.TABLE A	Amendment
- 4) Date Proposal published in Illinois Register: January 27, 2006; 30 Ill. Reg. 1255
- 5) Date Adoption published in Illinois Register: September 22, 2006; 30 Ill. Reg. 15141
- 6) Summary and Purpose of Expedited Correction: The Department has determined that discrepancies between the text for this adopted rule making and previously published rule text, as well as second notice text, require this action. The agency is correcting non-substantive errors that are of a typographical, clerical, grammatical, or formatting nature.
- 7) Information and questions regarding this request shall be directed to:

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

- 147.5 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Repealed)
- 147.15 Comprehensive Resident Assessment (Repealed)
- 147.25 Functional Needs and Restorative Care (Repealed)
- 147.50 Service Needs (Repealed)
- 147.75 Definitions (Repealed)
- 147.100 Reconsiderations (Repealed)
- 147.105 Midnight Census Report
- 147.125 Nursing Facility Resident Assessment Instrument
- 147.150 Minimum Data Set (MDS) Based Reimbursement System
- 147.175 Minimum Data Set (MDS) Integrity
- 147.200 Minimum Data Set (MDS) ~~On-Site~~on-Site Review Documentation
- 147.205 Nursing Rates (Repealed)
- 147.250 Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) (Repealed)
- 147.300 Payment to Nursing Facilities Serving Persons with Mental Illness
- 147.301 Sanctions for Noncompliance
- 147.305 Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)
- 147.310 Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)
- 147.315 Comprehensive Functional Assessments and Reassessments (Repealed)
- 147.320 Interdisciplinary Team (IDT) (Repealed)
- 147.325 Comprehensive Program Plan (CPP) (Repealed)
- 147.330 Specialized Care – Administration of Psychopharmacologic Drugs (Repealed)
- 147.335 Specialized Care – Behavioral Emergencies (Repealed)
- 147.340 Discharge Planning (Repealed)
- 147.345 Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness (Repealed)
- 147.350 Reimbursement for Additional Program Costs Associated with Providing

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147.TABLE A	Staff Time (in Minutes) and Allocation by Need Level
147.TABLE B	Staff Time and Allocation for Restorative Programs (Repealed)
147.TABLE C	Comprehensive Resident Assessment (Repealed)
147.TABLE D	Functional Needs and Restorative Care (Repealed)
147.TABLE E	Service (Repealed)
147.TABLE F	Social Services (Repealed)
147.TABLE G	Therapy Services (Repealed)
147.TABLE H	Determinations (Repealed)
147.TABLE I	Activities (Repealed)
147.TABLE J	Signatures (Repealed)
147.TABLE K	Rehabilitation Services (Repealed)
147.TABLE L	Personal Information (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17

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Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. _____, effective September 11, 2006.

Section 147.125 Nursing Facility Resident Assessment Instrument

- a) Except as specified in subsection (b) of this Section, all Medicaid certified nursing facilities shall comply with the provisions of the current federal Long Term Care Resident Assessment Instrument User's Manual, version 2. (Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (December 2005), and the Resident Assessment Instrument—Mental Health Illinois version 2 (July 2003), adopted from Minimum Data Set—Mental Health version 2. This incorporation by reference includes no later amendments or editions.)
- b) Nursing facilities shall, in addition, comply with the following requirements:
 - 1) Complete a full Minimum Data Set (MDS) assessment, which includes required items A through R, in addition to any State required items, for each resident quarterly, regardless of the resident's payment source. Facilities are not required to complete and submit the MDS Quarterly Assessment Form. When completing the full MDS assessment for quarterly submittal to the Department, it is not necessary to also complete the Resident Assessment Protocols (RAPs) or Section T. RAPs and Section T are only required with the comprehensive assessment described in the current federal Long Term Care Resident Assessment Instrument User's Manual, which includes assessments completed at admission, annually, for a significant change or for a significant correction of a prior MDS.

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- 2) Transmit electronically to the State MDS database the MDS for all assessments within 31 days after the completion date of the assessment. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, the rate set will be based on the MDS received two quarters prior to the rate effective date and MDS not received within 31 days will be given a default rate.
- c) While a new rate system referenced in Section 147.150 is under development, Medicaid-certified Class I IMDs shall electronically submit both the MDS pursuant to subsections (a) and (b) of this Section and the Illinois Minimum Data Set-Mental Health (IL MDS-MH) as specified by the Department at the following frequencies:
 - 1) Complete a full IL MDS-MH within 14 days after admission for each resident, regardless of the resident's payment source.
 - 2) Complete a full IL MDS-MH at 90 days after admission for each resident, regardless of the resident's payment source.
 - 3) Complete a full IL MDS-MH at six months after admission for each resident, regardless of the resident's payment source, and every six months thereafter.
 - 4) Transmit electronically to the Department's IL MDS-MH database, the IL MDS-MH for all required assessments within 31 days after the completion date of the assessment.

(Source: Amended at 30 Ill. Reg. 15141, effective September 11, 2006; Expedited Correction at 31 Ill. Reg. _____, effective September 11, 2006)

Section 147.150 Minimum Data Set (MDS) Based Reimbursement System

- a) Public Act 92-0848 requires the Department to implement, effective July 1, 2003, a payment methodology for the nursing component of the rate paid to nursing facilities. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, reimbursement for the nursing component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly. For

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Class I IMDs, the nursing component shall be the rate in effect on June 30, 2005 until a payment methodology using the Illinois Minimum Data Set-Mental Health (IL MDS-MH), appropriate for the care needs of the IMD resident population, is implemented. The payment methodology using the IL MDS-MH shall be implemented no later than July 1, 2007.

- b) The nursing component of the rate shall be calculated annually and may be adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter preceding the rate period. Residents for whom MDS resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter. The nursing component of the rate may be adjusted on a quarterly basis if any of the following conditions are met:
- 1) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time calculated for the previous rate quarter by more than five percent.
 - 2) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds:
 - A) total variable nursing time as calculated for the annual rate period by more than ten percent;
 - B) total variable nursing time as recalculated and adjusted for the annual period by more than five percent.
 - 3) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section declines from the total variable nursing time as calculated for the annual period by more than five percent. No quarterly nursing component rate reduction shall exceed five percent from the previous rate quarter.
- c) Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and

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reimbursement for supplies, consultants, medical directors and nursing directors.

- 1) Variable Time Reimbursement. Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the wage(s) of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:
 - A) The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.
 - B) Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.
 - C) The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.
 - D) Special minimum wage factor. The process used in subsection (c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.
 - E) Beginning January 1, 2007, facilities shall be paid a rate based upon the sum of the following:

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- i) the facility MDS-based rate multiplied by the ratio the numerator of which is the quotient obtained by dividing the additional funds appropriated specifically to pay for rates based upon the MDS nursing component methodology above the December 31, 2006 funding by the total number of Medicaid patient days utilized by facilities covered by the MDS-based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-based methodology and the weighted mean rate in effect on December 31, 2006.
 - ii) ~~the~~The facility rate in effect on December 31, 2006, which is defined as the facility rate in effect on December 31, 2006 plus the Exceptional Care per diem computed in 89 Ill. Adm. Code 140.569(a)(1), multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). The Exceptional Care reimbursement per diem effective January 1, 2007 computed in 89 Ill. Adm. Code 140.569 shall be included in the nursing component of the June 30, 2006 rate unless the total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section is more than a five percent drop from the total variable nursing time calculated for the June 30, 2006 rate quarter. Then the facility will receive for the rate period zero percent of the Exceptional Care reimbursement per diem computed in 89 Ill. Adm. Code 140.569
- F) The amount of new funds allocated for MDS reimbursement methodology for Fiscal Year 2007, beginning January 1, 2007, is \$30 million.
- 2) Vacation, Sick Leave and Holiday Time. The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of Variable Time by 5%.
 - 3) Special Supplies, Consultants and the Director of Nursing. Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to

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variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830).

- A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.
 - B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities' Director of Nursing and consultant costs to total facility health care and programs salaries.
 - C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).
- d) **Determination of Facility Rates.**
An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.
- e) A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect July 1, 2003 shall be provided for a period not exceeding December 31, 2006, as follows:
- 1) MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:

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- A) when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002, or
 - B) January 1, 2007.
- 2) For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003 until a higher nursing component rate of reimbursement is achieved by that facility.
 - 3) For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.
 - 4) Notwithstanding subsections (e)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.

(Source: Amended at 30 Ill. Reg. 15141, effective September 11, 2006; Expedited Correction at 31 Ill. Reg. _____, effective September 11, 2006)

Section 147.175 Minimum Data Set (MDS) ~~Data Integrity~~

- a) The Department shall conduct reviews to determine the accuracy of resident assessment information transmitted in the Minimum Data Set (MDS) that are relevant to the determination of reimbursement rates. Such reviews may, at the discretion of the Department, be conducted electronically or in the facility.
- b) The Department shall quarterly select, at random, a number of facilities in which to conduct on-site reviews. In addition, the Department may select facilities for on-site review based upon facility characteristics, past performance, or the Department's experience.

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- c) Electronic review. The Department shall conduct quarterly an electronic review of MDS data for eligible individuals to identify facilities for on-site review.
- d) On-site review. The Department shall conduct an on-site review of MDS data for eligible individuals.
 - 1) On-site reviews may be conducted with respect to residents or facilities that are identified pursuant to subsection (b) or (c) of this Section. Such review may include, but shall not be limited to, the following:
 - A) Review of resident records and supporting documentation, as identified in Section ~~147.200174.200~~, observation and interview, to determine the accuracy of data relevant to the determination of reimbursement rates.
 - B) Review and collection of information necessary to assess the need for a specific service or care area.
 - C) Review and collection of information from the facility that will establish the direct care staffing level.
 - 2) The number of residents in any selected facility for whom information is reviewed may, at the sole discretion of the Department, be limited or expanded.
 - 3) Upon the conclusion of any review, the Department shall conduct a meeting with facility management to discuss preliminary conclusions of the review. If facility management disagrees with those preliminary conclusions, facility management may, at that time, provide additional documentation to support their position.
- e) Corrective action. Upon the conclusion of the review and the consideration of any subsequent supporting documentation provided by the facility, the Department shall notify the facility of its final conclusions, both with respect to accuracy of data and recalculation of the facility's reimbursement rate.
 - 1) Data Accuracy

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- A) Final conclusions with respect to inaccurate data shall be referred to the Department of Public Health.
 - B) The Department, in collaboration with the Department of Public Health, shall make available additional training in the completion of resident assessments and the coding and transmission of MDS records.
- 2) Recalculation of Reimbursement Rate. The Department shall determine if reported MDS data or facility staffing data that were subsequently determined to be unverifiable would cause the direct care component of the facility's rate to be calculated differently when using the accurate data. No change in reimbursement required as a result of a review shall take effect before July 1, 2004. A facility's rate shall only be recalculated on those residents who have been subject to a Department review. A facility's rate will be subject to change if the recalculation of the direct care component rate, as a result of using MDS data that are verifiable
- A) Increases the rate by more than one percent. The rate is to be changed, retroactive to the beginning of the rate period, to the recalculated rate.
 - B) Decreases the rate by more than one percent. The rate is to be changed, retroactive to the beginning of the rate period, to the recalculated rate.
 - C) Decreases the rate by more than ten percent in addition to the rate change specified in this subsection (e)(2). The direct care component of the rate shall be reduced, retroactive to the beginning of the rate period, by \$1 for each whole percentage decrease in excess of two percent.
- 3) Any evidence or suspicion of deliberate falsification or misrepresentation of MDS data shall be referred to the Department's Inspector General and the Department of Public Health.
- f) Appeals. Facilities disputing any rate change may request a hearing pursuant to 89 Ill. Adm. Code 140.830.

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(Source: Amended at 30 Ill. Reg. 15141, effective September 11, 2006; Expedited Correction at 31 Ill. Reg. _____, effective September 11, 2006)

Section 147.200 Minimum Data Set (MDS) On-Site Review Documentation

- a) Pursuant to Section 147.175, Department staff shall conduct on-site reviews of Minimum Data Set (MDS) data to determine the accuracy of resident information that is relevant to the determination of reimbursement rates. ~~Pursuant to Section 147.175, Department staff shall conduct on-site reviews of Minimum Data Set (MDS) data to determine the accuracy of resident information that is relevant to the determination of reimbursement rates.~~ Each nursing facility shall make accessible to the Department all provider, resident and other records necessary to determine that the needs of the resident are being met, and to determine the appropriateness of services. The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review organizations to provide utilization review and quality assurance.
- b) There shall be documentation in the resident's record to support an MDS coded response indicating that the condition or activity was present or occurred during the observation or look back period. Directions provided by the RAI User's Manual (as described in Section 147.125) are the basis for all coding of the MDS. Section S is reserved for additional State-defined items. All documentation requirements pertain to the MDS 2.0 and Section S items.
- c) Each nursing facility shall ensure that MDS data for each resident accurately and completely describes the resident's condition, as documented in the resident's clinical records, maintained by the nursing facility, and the clinical records shall be current, accurate and in sufficient detail to support the reported resident data.
- d) Documentation guidance has been compiled from the RAI Manual, instructions that are present on the MDS 2.0 form itself, RAI-MH, and Illinois additional documentation requirements. If later guidance is released by CMS that contradicts or augments guidance provided in this Section, the more current information from CMS becomes the acceptable standard. If additional ICD9 codes are published, they will be reviewed for appropriateness.

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- e) Documentation from all disciplines and all portions of the resident's clinical record may be used to verify an MDS item response. All supporting documentation shall be found in the facility during an on-site visit.
- f) All conditions or treatments shall have been present or occurred within the designated observation period. Documentation in the clinical record shall consistently support the item response and reflect care related to the symptom/problem. Documentation shall apply to the appropriate observation period and reflect the resident's status on all shifts. In addition, the problems that are identified by the DS item responses that affect the resident's status shall be addressed on the care plan. Insufficient or inaccurate documentation may result in a determination that the MDS item response submitted could not be validated.
- g) Disease Diagnoses
 - 1) Code only those diseases or infections that which have a relationship to the resident's current ADL (Activities of Daily Living) status, cognitive status, mood or behavior status, medical treatments, nursing monitoring or risk of death as directed in the RAI Manual.
 - 2) The disease conditions require a physician-documented diagnosis in the clinical record. It is good clinical practice to have the resident's physician provide supporting documentation for any diagnosis.
 - 3) Do not include conditions that have been resolved or no longer affect the resident's functioning or care plan. One of the important functions of the MDS assessment is to generate an updated, accurate picture of the resident's health status.
- h) Activities of Daily Living (ADL)
Facilities shall maintain documentation that supports the coding of Section G, Physical Functioning, and Structural Problems on the MDS during the assessment reference period. The documentation shall show the MDS coded level of resident self-performance and support has been met.
- i) Restorative specific documentation shall include:

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- 1) Documentation shall define the resident's needs and identify a restorative nursing plan of care to assist the resident in reaching and/or maintaining his or her highest level of functioning. Documentation shall contain objective and measurable information so that progress, maintenance or regression can be recognized.
- 2) Goals shall be resident specific, realistic, and measurable. The resident's endurance and ability to participate in the programs shall be addressed.
- 3) Written evidence of measurable objectives and interventions shall be in the resident's care plan, reviewed quarterly, and revised as necessary.
- 4) Written evidence of quarterly evaluation by a licensed nurse shall be in the clinical record.
- 5) There shall be written evidence that staff carrying out the programs have been trained in techniques that promote resident involvement in the activity.
- 6) There shall be written evidence that techniques are carried out or supervised by members of the nursing staff.
- 7) Sometimes under licensed nurse supervision, other staff and volunteers will be assigned to work with specific residents. If a volunteer is assigned to a specific resident, there shall be written evidence of specific training in techniques that ~~promote~~promotes that resident's involvement in the restorative program.
- 8) Restorative programs shall be ongoing, unless there is written justification in the clinical record that supports the need to discontinue the program.
- 9) The number of minutes per day spent in a restorative program shall be documented for each resident and for each restorative program during the look back period.
- 10) The medical record shall also include documentation that restorative nursing services were administered as planned.

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- 11) An assessment designed by the Department shall be required quarterly to assess the resident's endurance and ability to benefit from two or more restorative programs.
 - 12) A splint or brace is defined as an appliance for the fixation, union or protection of an injured part of the body.
 - 13) A check and change program will not be scored as a toileting program.
 - 14) All restorative programs provided per criteria of the RAI manual shall be coded on the MDS.
- j) **Discharge Planning**
Social services shall document monthly on the resident's potential for discharge, specific steps being taken toward discharge, and the progress being made. Social Service documentation shall demonstrate realistic evaluation, planning, and follow-through. Discharge plans shall address the current functional status of the resident, medical nursing needs, and the availability of family and/or community resources to meet the needs of the resident.
- k) **Psychosocial Adaptation Services**
Behavioral symptoms shall be assessed and tracked during the look back period. They shall be addressed in the care plan with individualized goals and interventions.
- l) **Skills Training**
Skills training is specific methods for assisting residents who need and can benefit from this training to address identified deficits and reach personal and clinical goals. To qualify for reimbursement, the provision of skills training shall meet all of the following criteria:
- 1) Skills and capabilities shall be assessed with the use of a standardized skills assessment, a cognitive assessment and an assessment of motivational potential. The assessment of motivational potential will assist in determining the type and size of the group in which a resident is capable of learning.
 - 2) Addresses identified skill deficits related to goals noted in the treatment plan.

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- 3) Skills training shall be provided by facility staff, trained in leading skills groups, who are paid by the facility.
- 4) Training shall be provided in a private room with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise, and other distractions.
- 5) Training shall be provided in groups no larger than ten, with reduced group size for residents requiring special attention due to cognitive, motivational or clinical issues, as determined by the skills assessment, cognition and motivational potential. Individual sessions can be provided as appropriate and shall be identified in the care plan.
- 6) Training shall utilize a well-developed, structured curriculum and specific written content developed in advance to guide each of the sessions. (Published skills modules developed for the severe mentally ill (SMI) and Mental Illness/Substance Abuse (MISA) populations are available for use and as models).
- 7) The curriculum shall address discrete sets of skill competencies, breaking skills down into smaller components or steps in relation to residents' learning needs.
- 8) The specific written content shall provide the ~~rational~~rational for learning, connecting skill acquisition to resident goals.
- 9) Training shall employ skill demonstration/modeling, auditory and visual presentation methods, role-playing and skill practice, immediate positive and corrective feedback, frequent repetition of new material, practice assignments between training sessions (homework), and brief review of material from each previous session.
- 10) There shall be opportunities for cued skill practice and generalization outside session as identified in the care plan and at least weekly documentation relative to skill acquisition.
- 11) Each training session shall be provided and attended in increments of a minimum of 30 minutes each (not counting time to assemble and settle) at

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least three times per week. Occasional absences are allowable, with individual coverage of missed material as necessary.

- m) Close and Constant Observations
Coding of this item is intended only for interventions applied in response to the specific current significant need of an individual resident. This item should not be coded for observation conducted as standard facility policy for all residents, such as for all new admissions, or as part of routine facility procedures, such as for all returns from hospital or conducted as a part of periodic resident headcounts.
- n) Ancillary Provider Services
 - 1) Ancillary provider services are services that are provided by direct non-facility psychiatric service providers in order to meet 77 Ill. Adm. Code 300, Subpart S requirements.
 - 2) Psychiatric rehabilitation services that are provided by non-facility providers or an outside entity shall meet the needs of the SMI resident as determined by the resident's individual treatment plan (ITP).
 - 3) Facilities must ensure compliance with 77 Ill. Adm. Code, ~~Subpart S~~, Section 300.4050 when utilizing non-facility or outside ancillary providers.
- o) Psychotropic Medication Monitoring
Facilities are to follow documentation guidelines as directed by 42 CFR 483.25(1) (State Operations Manual tags F329, F330, F331).
- p) Dementia Care Unit
 - 1) If the resident has a CPS score of five, care planning shall address the resident's participation in the unit's activities.
 - 2) If a particular resident does not participate in at least an average of four activities per day over a one-week period, the unit director shall evaluate the resident's participation and have the available activities modified and/or consult with the interdisciplinary team.
 - 3) Documentation shall support staff's efforts to involve the resident.

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- q) Exceptional Care Services
- 1) Extensive Respiratory Services
 - A) A respiratory therapist shall evaluate the status of the resident at least monthly if the resident has a tracheostomy.
 - B) Documentation of respiratory therapy being provided 15 minutes a day shall be present in the clinical record for the look back period.
 - C) Respiratory therapy requires documentation in the record of the treatment and the times given by a qualified professional (respiratory therapist or trained nurse) as defined in the RAI manual.
 - 2) Documentation shall be in place to support weaning from the ventilator.
 - 3) Ventilator Care
 - A) If the facility has residents receiving ventilator care, the facility shall have a respiratory therapist available at the facility or on call 24 hours a day.
 - B) A respiratory therapist shall evaluate and document the status of the resident at least weekly.
 - 4) Morbid Obesity
 - A) A ~~dietician's~~Dietician's evaluation shall be completed with evidence of on-going consultation.
 - B) On-going monitoring of weight shall be evident.
 - C) The psychosocial needs related to weight issues shall be identified and addressed.
 - 5) Wound Care Services

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Facilities are to follow documentation guidelines as directed by 42 CFR 483.25(c) (State Operations Manual tag F314).

- 6) Traumatic Brain Injury (TBI)
 - A) Documentation shall support that psychological therapy is being delivered by licensed mental health ~~professionals~~professional, as described in the RAI manual.
 - B) Documentation shall support a Special Symptom Evaluation program as an ongoing, comprehensive, interdisciplinary evaluation of behavioral symptoms as described in the RAI manual.
 - C) Documentation shall support evaluation by a licensed mental health specialist in the last 90 days. This shall include an assessment of a mood, behavior disorder, or other mental health problems by a qualified clinical professional as described in the RAI manual.
 - D) The care plan shall address the behaviors of the resident and the interventions used.
- r) Clarification and additional documentation requirements are as follows:
 - 1) Defined actions such as further assessment or documentation, described in the RAI Manual as "good clinical practice" are required by the Department as supporting documentation. Clinical documentation that contributes to identification and communication of a resident's problems, needs and strengths, that monitors his or her condition on an on-going basis, and that records treatments and response to treatment is a matter of good clinical practice and is an expectation of trained and licensed health care professionals (RAI page 1-23).
 - 2) The facility shall have in place policies and procedures to address specific care needs of the residents, written evidence of ongoing in-services for staff related to residents' specific care needs and all necessary durable medical equipment to sustain life and carry out the plan of care as

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designed by the physician. In the absence of the above, a referral will be made to the Illinois Department of Public Health.

- 3) No specific types of documentation or specific forms are mandated, but documentation shall be sufficient to support the codes recorded on the MDS. Treatments and services ordered and coded shall be documented as delivered in the clinical record.
- 4) When completing a significant change assessment, the guidelines provided in the RAI Manual shall be followed. This includes documenting "the initial identification of a significant change in terms of the resident's clinical status in the progress notes" as described in RAI page 2-7.

(Source: Old Section repealed at 27 Ill. Reg. 18680, effective November 26, 2003; new Section added at 30 Ill. Reg. 15141, effective September 11, 2006; Expedited Correction at 31 Ill. Reg. _____, effective September 11, 2006)

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Section 147. TABLE A Staff Time (in Minutes) and Allocation by Need Level

- a) Effective July 1, 2003, each Medicare and Medicaid certified nursing facility shall complete, and transmit quarterly to the Department, a full Minimum Data Set (MDS) for each resident who resides in a certified bed, regardless of payment source. A description of the MDS items referenced in the tables found following subsection (e) of this Table A are contained in the Long Term Care Resident Assessment Instrument User's Manual available from the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (December 2002).
- b) Table A identifies 51 MDS items that shall be used to calculate a profile on each Medicaid-eligible resident within each facility.
- c) The profile for each Medicaid-eligible resident shall then be blended to determine the nursing component of the nursing facility's Medicaid rate.
- d) Each MDS item in Table A includes a description of the item and the variable time referred to in Section 147.150(c)(1). The variable time assigned to each level represents the type of staff that should be delivering the service (unlicensed, licensed, social worker and activity) and the number of minutes allotted to that service item.
- e) Following is a listing of the 51 reimbursable MDS items found in Table A.
 - 1) Base Social Work and Activity
 - 2) Activities of Daily Living (ADL)
 - 3) Restorative Programs

PROM

AROM

Splint/Brace

Bed Mobility

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Mobility/Transfer

Walking

Dressing/Grooming

Eating

Prosthetic Care

Communication

Other Restorative

Scheduled Toileting

4) Medical Services

Continence Care

Catheter Care

Bladder Retraining

Pressure Ulcer Prevention

Moderate Skin Care Services

Intensive Skin Care Services

Ostomy Care

IV Therapy

Injections

Oxygen Therapy

Chemotherapy

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Dialysis

Blood Glucose Monitoring

End Stage Care

Infectious Disease

Acute Medical Conditions

Pain Management

Discharge Planning

Nutrition

Hydration

5) Mental Health (MH) Services

Psychosocial Adaptation

Psychotropic Medication Monitoring

Psychiatric Services (Section S)

Skills Training

Close or Constant Observation

6) Dementia Services

Cognitive Impairment/Memory Assistance

Dementia Care Unit

7) Exceptional Care Services

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Extensive Respiratory Services

Ventilator Care

Total Weaning From Ventilator

Morbid Obesity

Complex Wound Care

Traumatic Brain Injury (TBI)

8) Special Patient Need Factors:

Communication: add 1% of staff time accrued for ADLs through Exceptional Care Services

Vision Problems: add 2% of staff time accrued for ADLs through Exceptional Care Services

Accident/Fall Prevention: add 3% of staff time accrued for ADLs through Exceptional Care Services

Restraint Free Care: add 2% of staff time accrued for ADLs through Exceptional Care Services

Activities: add 2% of staff time accrued for ADLs through Exceptional Care Services

MDS ITEMS AND ASSOCIATED STAFF TIMES

Throughout Table A, where multiple levels are identified, only the highest level shall be scored.

1) Base Social Work and Activity

Level		Unlicensed	Licensed	Social Worker	Activity
I	All Clients	0	0	5	10

2) Activities of Daily Living

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Level	Composite Scores	Unlicensed	Licensed	Social Worker	Activity
I	Composite 7-8	50	7.5 RN 7.5 LPN		
II	Composite 9-11	62	9.5 RN 9.5 LPN		
III	Composite 12-14	69	10.5 RN 10.5 LPN		
IV	Composite 15-29	85	12.5 RN 12.5 LPN		

ADL Scoring Chart for the above Composite Levels

MDS values equal to "-" denote missing data.

ADL	MDS items	Description	Score
Bed Mobility	G1aA = - or G1aA = 0 or G1aA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1aA = 2.	Self-Performance = limited assistance	3
	G1aA = 3 or G1aA = 4 or G1aA = 8 AND G1aB = - or G1aB = 0 or G1aB = 1 or G1aB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1aB = 3 or G1aB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Transfer	G1bA = - or G1bA = 0 or G1bA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1bA = 2.	Self-Performance = limited assistance	3

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	G1bA = 3 or G1bA = 4 or G1bA = 8 AND G1bB = - or G1bB = 0 or G1bB = 1 or G1bB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1bB = 3 or G1bB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Locomotion	G1eA = - or G1eA = 0 or G1eA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1eA = 2.	Self-Performance = limited assistance	3
	G1eA = 3 or G1eA = 4 or G1eA = 8 AND G1eB = - or G1eB = 0 or G1eB = 1 or G1eB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1eB = 3 or G1eB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Toilet	G1iA = - or G1iA = 0 or G1iA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1iA = 2.	Self-Performance = limited assistance	3

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	G1iA = 3 or G1iA = 4 or G1iA = 8 AND G1iB = - or G1iB = 0 or G1iB = 1 or G1iB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1iB = 3 or G1iB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Dressing	G1gA = - or G1gA = 0 or G1gA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1gA = 2.	Self-Performance = limited assistance	2
	G1gA = 3 or G1gA = 4 or G1gA = 8.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur	3
Hygiene	G1jA = - or G1jA = 0 or G1jA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1jA = 2.	Self-Performance = limited assistance	2
	G1jA = 3 or G1jA = 4 or G1jA = 8.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur	3
Eating	G1hA = - or G1hA = 0 or G1hA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1hA = 2.	Self-Performance = limited assistance	2

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	G1hA = 3 or G1hA = 4 or G1hA = 8 Or K5a = 1 or K5b = 1 and Intake = 1 Where Intake = 1 if K6a = 3 or K6a = 4 Or Intake = 1 if K6a = 2 and K6b = 2 or K6b = 3 or K6b = 4 or K6b = 5.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Parenteral/IV in last 7 days Tube feeding in last 7 days See below Parenteral/enteral intake 51-75% of total calories Parenteral/enteral intake 76-100% of total calories Parenteral/enteral intake 26-50% of total calories Average fluid intake by IV or tube is 501-1000 cc/day Average fluid intake by IV or tube is 1001-1500 cc/day Average fluid intake by IV or tube is 1501-2000 cc/day Average fluid intake by IV or tube is 2001 or more cc/day	3
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3) Restorative Programs

With the exception of amputation/prosthesis care and splint or brace assistance restoratives, the total number of restorative programs eligible for reimbursement shall be limited to five, with no more than three being a Level II restorative. Scheduled toileting shall be included in this limit. Splint or brace assistance and amputation/prosthesis care shall be reimbursed independently. A resident coded in I1t (CVA/stroke) on the MDS and also coded as B4≤2 (cognitive skills for decision making) shall be limited to a total of six restoratives with no more than four being a Level II restorative. A Department

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designed assessment shall be required quarterly to assess the resident's endurance and the resident's ability to benefit from two or more restorative programs.

When the number of restoratives coded on the MDS exceeds the allowable limits for reimbursement, the following order shall be used.

- A) Eating Restorative
- B) Scheduled Toileting
- C) Walking Restorative
- D) Transfer Restorative
- E) PROM
- F) Bed Mobility Restorative
- G) Communication Restorative
- H) Dressing/Grooming Restorative
- I) Other Restorative
- J) AROM

Passive Range of Motion

Lev	MDS items	Description	Unl	Lic	SW	Act
	G4aA > 0 or	Any function limits in ROM of neck				
	G4bA > 0 or	Any function limits in ROM of arm				
	G4cA > 0 or	Any function limits in ROM of hand				
	G4dA > 0 or	Any function limits in ROM of leg				

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	G4eA > 0 or G4fA > 0 or G4aB > 0 or G4bB > 0 or G4cB > 0 or G4dB > 0 or G4eB > 0 or G4fB > 0	Any function limits in ROM of foot Any function limits in ROM of other limitation or loss Any function limits in voluntary movement of neck Any function limits in voluntary movement of arm Any function limits in voluntary movement of hand Any function limits in voluntary movement of leg Any function limits in voluntary movement of foot Any function limits in voluntary movement of other limitation or loss				
	AND					
I	3 = P3a = 5	3 to 5 days of PROM rehab	10	3 RN 3 LPN		
II	6 = P3a = 7	6 to 7 days of PROM rehab	15	3 RN 3 LPN		

Active Range of Motion

Lev	MDS items	Description	Unl	Lic	SW	Act
	G4aA > 0 G4aA θ or G4bA > 0 or	Any function limits in ROM of neck Any function limits in ROM of arm				

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	G4cA > 0 or G4dA > 0 or G4eA > 0 or G4fA > 0 or	Any function limits in ROM of hand Any function limits in ROM of leg Any function limits in ROM of foot Any function limits in ROM of other limitation or loss				
	G4aB > 0 or G4bB > 0 or G4cB > 0 or G4dB > 0 or G4eB > 0 or G4fB > 0	Any function limits in voluntary movement of neck Any function limits in voluntary movement of arm Any function limits in voluntary movement of hand Any function limits in voluntary movement of leg Any function limits in voluntary movement of foot Any function limits in voluntary movement of other limitation or loss				
	AND					
I	3 = P3b = 5	3 to 5 days of AROM rehab	8	2 RN 2 LPN		
II	6 = P3b = 7	6 to 7 days of AROM rehab	12	2 RN 2 LPN		

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Splint/Brace Assistance

Lev	MDS items	Description	Unl	Lic	SW	Act
I	3 = P3c = 5	3 to 5 days of assistance	8	2 RN 2 LPN		
II	6 = P3c = 7	6 to 7 days of assistance	12	2 RN 2 LPN		

Bed Mobility Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1aA < 8 AND G7 = 1	Need assistance in bed mobility Some or all ADL tasks broken into subtasks				
	AND					
I	3 = P3d = 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 = P3d = 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Mobility (Transfer) Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1bA < 8 AND	Need assistance in transfer				

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	G7 = 1	Some or all ADL tasks broken into subtasks				
AND						
I	3 = P3e = 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 = P3e = 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Walking Restorative

Lev	MDS items	Description	Unl	Lic	S W	Act
	0 < G1cA < 8 or 0 < G1dA < 8 or 0 < G1eA < 8 or 0 < G1fA < 8 or AND G7 = 1	Need assistance in walking in room Need assistance in walking in corridor Need assistance in locomotion on unit Need assistance in locomotion off unit Some or all ADL tasks broken into subtasks				
AND						
I	3 = P3f = 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 = P3f = 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

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Dressing or Grooming Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1gA < 8 or 0 < G1jA < 8 AND G7 = 1 AND	Need assistance in dressing Need assistance in personal hygiene Some or all ADL tasks broken into subtasks				
	B4 ≤ 2	Cognitive skills for decision making				
	AND					
	S1 = 0 AND	Does not meet IDPH Subpart S Criteria				
I	3 = P3g = 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 = P3g = 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Eating Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1hA < 8 or K1b = 1 AND G7 = 1	Need assistance in eating Has swallowing problem Some or all ADL tasks broken into subtasks				
	AND					

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I	3 = P3h = 5	3 to 5 days of rehab or restorative techniques	15	3 RN 3 LPN		
II	6 = P3h = 7	6 to 7 days of rehab or restorative techniques	20	3 RN 3 LPN		

Amputation/Prosthetic Care

Lev	MDS items	Description	Unl	Lic	SW	Act
I	3 = P3i = 5	3 to 5 days of assistance	10	3 RN 3 LPN		
II	6 = P3i = 7	6 to 7 days of assistance	15	3 RN 3 LPN		

Communication Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
	C4 > 0	Deficit in making self understood				
	AND					
I	3 = P3j = 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 = P3j = 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

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Other Restorative

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P3k=3 or greater AND Q2 < 2 AND B2a = 0 AND B4 = 0 or 1 AND C6 = 0 or 1 AND S1 = 0	Other Restorative Improved or no change in care needs Short term memory okay Cognitive skills for decision making Ability to understand others Does not meet IDPH Subpart S criteria	6	5 RN 5 LPN		
II	P3k = 3 or greater AND Q1c = 1 or 2 AND Q2 < 2 AND P1ar = 1 AND B2a = 0 AND B4 = 0 or 1 AND	Other restorative Stay projected to be of a short duration – discharge expected to be within 90 days Improved or no change in care needs Provide training to return to the community Short-term memory Cognitive skills for decision making	6	7.5 RN 7.5 LPN		

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C6 = 0 or 1 AND S1 = 0	Ability to understand others Does not meet IDPH Subpart S criteria				
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Other Restorative shall only be reimbursed for a total of two quarters regardless of the level.

Scheduled Toileting

Lev	MDS items	Description	Unl	Lic	SW	Act
I	H3a = 1 AND H3b = 0 AND H3d = 0 AND H1b > 1 or GliA > 1 and <8	Any scheduled toileting plan No bladder retraining program No indwelling catheter Incontinent at least 2 or more times a week Self-performance = limited to total assistance	22	1.5 RN 1.5 LPN		

4) Medical Services**Continence Care**

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<u>Catheter Care</u>		12	.5 RN .5 LPN		

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	H3d = 1 AND H3a = 0	Indwelling catheter present No scheduled toileting plan				
II	Bladder Retraining H3b = 1 AND H3a = 0 AND H1b > 1 AND B4 = 0 or 1 OR H3b = 1 AND H3a = 0 AND H1b = 1 AND H4 = 1 AND B4 = 0 or 1	Bladder retraining program No scheduled toileting plan Incontinent at least 2 or more times a week Cognitive skills for decision making Bladder retraining program No scheduled toileting plan Bladder continence Change in continence Cognitive skills in decision making	32	5 RN 5 LPN		

Bladder scanners cannot be the sole content of the program. Contenance Care – Level II (Bladder Retraining) shall only be reimbursed for two quarters.

Pressure Ulcer Prevention

Lev	MDS items	Description	Unl	Lic	SW	Act
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I	M3 = 1 or Any two of: M5a M5b M5c M5d M5i	History of resolved ulcers in last 90 days Pressure relieving devices for chair Pressure relieving devices for bed Turning or repositioning program Nutrition or hydration intervention for skin Other prevention for skin (other than feet)	15	4 RN 4 LPN		
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Moderate Skin Care/Intensive Skin Care

Lev	MDS items	Description	Unl	Lic	SW	Act
I	M1a > 0 or M1b > 0 or Any of: M4a = 1 M4b = 1 M4c = 1 M4d = 1 M4e = 1	Moderate Skin Care Services Stage 1 ulcers Stage 2 ulcers Other Skin Problems (below): Abrasions, bruises Burns Open lesions other than ulcers Rashes Skin desensitized to pain or pressure	5	5 RN 5 LPN		

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	M4f = 1	Skin tears or cuts (other than surgery)				
	M4g = 1	Surgical wounds				
	AND					
	4 of the following:	Skin Treatments (below):				
	M5a = 1	Pressure relieving devices for chair				
	M5b = 1	Pressure relieving devices for bed				
	M5c = 1	Turning or repositioning program				
	M5d = 1	Nutrition or hydration intervention for skin				
	M5e = 1	Ulcer care				
	M5f = 1	Surgical wound care				
	M5g = 1	Application of dressings (other than feet)				
	M5h = 1	Application of ointments (other than feet)				
	M5i = 1	Other prevention for skin (other than feet)				
	OR					
	(M6b = 1 or	Infection of the foot				
	M6c = 1)	Open lesion of the foot				
	AND					
	M6f = 1	And application of a dressing				
II		Intensive Skin Care Services				
	M1c > 0 or	Stage 3 ulcers	5	15 RN 15 LPN		

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M1d > 0 AND 4 of the following: M5a = 1 M5b = 1 M5c = 1 M5d = 1 M5e = 1 M5f = 1 M5g = 1 M5h = 1 M5i = 1	Stage 4 ulcers Skin Treatments (below): Pressure relieving devices for chair Pressure relieving devices for bed Turning or repositioning program Nutrition or hydration intervention for skin Ulcer care Surgical wound care Application of dressings (other than feet) Application of ointments (other than feet) Other prevention for skin (other than feet)				
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Ostomy Services

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1af = 1	Ostomy care performed	5	2.5 RN 2.5 LPN		

IV Therapy

Lev	MDS items	Description	Unl	Lic	SW	Act
I	Plac = 1 or	IV medication	1	15 RN 15 LPN		

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K5a = 1 AND P1ae = 1	Parenteral/IV nutrition Monitoring acute medical condition				
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Injections

Lev	MDS items	Description	Unl	Lic	SW	Act
I	O3 \geq 2	Number of injections in last 7 days		3 RN 3 LPN		

Oxygen Therapy

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ag = 1	Oxygen therapy administered in last 14 days	9	7.5 RN 7.5 LPN		

Chemotherapy

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1aa = 1	Chemotherapy given	1	5 RN 5 LPN		

Dialysis

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ab = 1	Dialysis given	1	5 RN 5	2	

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Blood Glucose Monitoring

Lev	MDS items	Description	Unl	Lic	SW	Act
I	I1a = 1 AND K5e = 1 or K5f = 1 or O3 = 7	Diabetes mellitus Therapeutic diet Dietary supplement Injections daily		1 RN 1 LPN		

End Stage Care

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J5c = 1	End stage disease, 6 or fewer months to live Restoratives including scheduled toileting and bladder retraining sets to level '0' except AROM, PROM, splint/brace. Limit of 4 quarters	10	6 RN 6 LPN	8	

If End Stage Care has been scored, Discharge Planning shall be set to zero.

Infectious Disease

Lev	MDS items	Description	Unl	Lic	SW	Act
I	I2a = 1 or I2b = 1 or	Antibiotic resistant infection Clostridium Difficile	18	8.5 RN 8.5 LPN	1	

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12e = 1 or	Pneumonia				
12g = 1 or	Septicemia				
I2i = 1 or	TB				
12j = 1 or	Urinary Tract infection present				
I2k = 1 or	Viral hepatitis				
12l = 1 or	Wound infection				
I3 = ICD9 code 041.01,133.0	Streptococcus Group A, scabies				

Acute Medical Conditions

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J5b = 1 AND	Acute episode or flare-up of chronic condition	1	11.5 RN 11.5 LPN	1	
	P1ae = 1 AND	Monitoring acute medical condition				
	P1ao = 0 OR	Not hospice care				
	(J5a = 1 AND	Condition makes resident's cognitive, ADL, mood or behavior patterns unstable				
	P1ao = 0 AND	Not hospice care				
	P1ae = 1) OR	Monitoring acute medical condition				
	(B5a = 2 or	Easily distracted over last 7 days				
	B5b = 2 or	Periods of altered perceptions or awareness of surroundings over last 7 days				

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B5c = 2 or	Episodes of disorganized speech over last 7 days				
B5d = 2 or	Periods of restlessness over last 7 days				
B5e = 2 or	Periods of lethargy over last 7 days				
B5f = 2) AND	Mental function varies over course of day in last 7 days				
P1ae = 1 AND	Monitoring acute medical condition				
P1ao = 0	Not hospice care				

Pain Management

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J2a > 0 AND	Demonstrate or complain of pain	4	4 RN 4 LPN	1	1
	J2b > 0	Mild to excruciating intensity				

Discharge Planning

Lev	MDS items	Description	Unl	Lic	SW	Act
I	Q1c = 1 or 2 AND	Stay projected to be of short duration – discharge expected to be within 90 days		8 RN 8 LPN	16	
	Q2 < 2 AND	Improved or no change in care needs				

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P1ar = 1 AND SI=0	Provide training to return to community Does not meet IDPH Subpart S criteria				
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Discharge Planning shall only be reimbursed for two quarters. If End Care has been scored, Discharge Planning shall be set at zero. ~~Discharge Planning shall not be scored if End Stage Care has been scored.~~

Nutrition

Lev	MDS items	Description	Unl	Lic	SW	Act
I	K5h = 1 OR K5f = 1	On a planned weight change program Dietary supplement given between meals	4	1.5 RN 1.5 LPN	1	
II	K5b =1 and Intake = 1 Intake = 1 if K6a = 3 or K6a = 4 Or Intake = 1 if K6a = 2 and K6b = 2 or K6b = 3 or	Tube feeding in last 7 days See below Parenteral/ enteral intake 51-75% of total calories Parenteral/enteral intake 76-100% of total calories Parenteral/enteral intake 26-50% of total calories Average fluid intake by IV or tube is 501-1000 cc/day Average fluid intake by IV or tube	0	11 RN 11 LPN	1	

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	K6b = 4 or	is 1001-1500 cc/day Average fluid intake by IV or tube is 1501-2000 cc/day				
	K6b = 5	Average fluid intake by IV or tube is 2001 or more cc/day				

Hydration

Lev	MDS items	Description	Unl	Lic	SW	Act
I	H2b = 1 or	Constipation	15	3.5 RN 3.5 LPN		1
	ICD9 = 564.00 or 564.7 AND K5a = 0 AND K5b = 0 OR Any two of the following <u>separate</u> conditions: 1 = O4e = 7 or	Constipation No parenteral/IV No feeding tube Received a diuretic medication in last 7 days				
	J1o = 1 or	Vomiting				
	I3 a,b,c,d,e = 276.5 or 276.50 or 276.51 or 276.52 or	Volume depletion Volume depletion, unspecified Dehydration Hypovolemia				

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I2j = 1 or	Urinary tract infection in last 30 days				
J1c = 1 or	Dehydrated				
J1d = 1 or	Did not consume most fluids provided (3 days)				
J1h = 1 or	Fever				
J1j = 1 AND	Internal bleeding				
K5a = 0 AND	Not have parenteral/IV				
K5b = 0	No feeding tube				

5) Mental Health Services

Psychosocial Adaptation

Lev	MDS items	Description	Unl	Lic	SW	Act
I	(P2a = 1 or	Behavior symptom evaluation	12	3 RN 3 LPN	8	2
	P2b = 1 or	Evaluation by licensed MH specialist within last 90 days				
	P2c = 1 or	Group therapy				
	P2d = 1) AND	Resident specific changes to environment				
	Any E1a-p > 0 or	Indicators of depression				
	F1g = 1 or	No indicators of psychosocial well-being				
	Any F2a-g = 1 or	Any unsettled relationships				
	Any F3a-c = 1 or	Issues with past roles				
	E4aA > 0 or	Wandering in last 7 days				

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

E4bA > 0 or E4cA > 0 or E4dA > 0 or E4eA > 0 or J1e = 1 or J1i = 1	Verbally abusive in last 7 days Physically abusive in last 7 days Inappropriate or disruptive behavior in last 7 days Resisted care in last 7 days Delusions Hallucinations				
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Psychotropic Medication Monitoring

Lev	MDS items	Description	Unl	Lic	SW	Act
I	O4a = 7 or O4b = 7 or O4c = 7 or O4d = 7	Antipsychotic meds Antianxiety meds Antidepressant meds Hypnotic meds	5	2.5 RN 2.5 LPN		

Psychiatric Services (Section S)

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S1 = 1 AND ADL Index = 4 AND	Meets IDPH Subpart S criteria Activities of Daily Living Composite Score = 15-29	6	1.5 RN 1.5 LPN	10	

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

	<p>One or more of the following are coded M1c or M1d >0 or</p> <p>K5b = 1 or K5a = 1 or Plab = 1 or J5c = 1 or Plaa = 1 or Plaj = 1 or Plal = 1 AND Psychiatric Services Level II, Level III, Level IV skills training, close and constant observation, dressing/grooming and other restorative, cognitive performance, dementia care unit and discharge planning reset to zero</p>	<p>Stage 3 or stage 4 ulcers</p> <p>Feeding tube</p> <p>Parenteral/IV</p> <p>Dialysis</p> <p>End Stage Disease</p> <p>Chemotherapy</p> <p>Tracheostomy Care provided</p> <p>Ventilator</p>				
II	<p>Sl = 1 AND</p>	<p>Meets IDPH Subpart S criteria</p>	13	2.5 RN 2.5	20	

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

				LPN		
	S8 = 1 AND Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero	Ancillary provider services delivered by non-facility providers				
III	SI = 1 AND ADL Index=3 or 4 AND (AA3-A3a)(AA3-A3a) /365.25 > 65 AND	Meets IDPH Subpart S criteria ADL composite score between 12-29 Resident is 65 years of age or older at time of the assessment reference date	13	4.5 RN 4.5 LPN	20	
	Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero					
IV	SI = 1 AND S8 = 0 AND Dressing/grooming and other restorative,	Meets IDPH Subpart S criteria Ancillary provider services delivered by facility providers	16	5 RN 5 LPN	25	

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

cognitive performance, and dementia care unit and discharge planning reset to zero						
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Skills Training – Section S

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S5 = 1 AND S1 = 1	Skills training provided Meets IDPH Subpart S criteria	6	6 RN 6 LPN	8	6

Close or Constant Observation - Section S

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S5a-e = 1 AND S1 = 1	Close or constant observation Meets IDPH Subpart S criteria	6	2 RN 2 LPN	5	

6) Dementia Services**Cognitive Impairment/Memory Assistance Services**

Lev	CPS items	Description	Unl	Lic	SW	Act
I	CPS = 2 AND S1 = 0	Cognitive performance scale of 2 Does not meet IDPH Subpart S criteria	6			4
II	CPS = 3 or 4 AND	Cognitive performance scale is 3 or 4	16	3 RN 3 LPN	11	10

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REQUEST FOR EXPEDITED CORRECTION

	S1 = 0	Does not meet IDPH Subpart S criteria				
III	CPS = 5 or 6 AND S1 = 0	Cognitive performance scale is 5 or 6 Does not meet IDPH Subpart S criteria	21	5.5 RN 5.5 LPN	16	15

Cognitive Performance Scale Codes

Scale	Description
0	Intact
1	Borderline Intact
2	Mild Impairment
3	Moderate Impairment
4	Moderate Severe Impairment
5	Severe Impairment
6	Very Severe Impairment

Impairment Count for the Cognitive Performance Scale

I code	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing
IC 1	B2a = 1	Memory problem
IC 2	B4 = 1 or 2	Some dependence in cognitive skills
IC 3	1 = C4 = 3	Usually understood to rarely or never understood

Severe Impairment Count for the Cognitive Performance Scale

I code	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing

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REQUEST FOR EXPEDITED CORRECTION

SIC 0	Below not met	
SIC 1	B4 = 2	Moderately impaired in cognitive skills
SIC 2	C4 = 2 or 3	Sometimes understood to rarely or never understood

Cognitive Performance Scale

Scale	MDS items	Description
Coma	N1a = 0 and N1b = 0 and N1c = 0 and B1 = 1 and G1aA = 4 or 8 And G1bA = 4 or 8 And G1hA = 4 or 8 And G1iA = 4 or 8 And	Awake all or most of the time in the morning Awake all or most of the time in the afternoon Awake all or most of the time in the evening Is comatose Bed-Mobility Self-Performance = total dependence or did not occur Transfer Self-Performance = total dependence or did not occur Eating Self-Performance = total dependence or did not occur Toilet Use Self-Performance = total dependence or did not occur
6	Not (B4 = 0,1, 2)	Not have cognitive skills independent to moderately impaired
6	B4 = 3 And G1hA = 4 or 8	Cognitive skills severely impaired Eating Self-Performance = total dependence or did not occur
5	B4 = 3 And G1hA = - or = 3	Cognitive skills severely impaired Eating Self-Performance = missing to extensive assistance
4	If IC code = 2 or 3 And SIC code = 2	Some dependence in cognitive skills Usually understood to rarely or never understood Sometimes understood to rarely or never understood
3	If IC code = 2 or 3 And SIC code = 1 If IC code = 2 or 3	Some dependence in cognitive skills Usually understood to rarely or never understood Moderately impaired in cognitive skills Some dependence in cognitive skills Usually understood to rarely or never understood

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

2	And SIC code = 0	Better than moderate cognition skills and usually can be understood
1	If IC code = 1	Memory problem

Dementia Care Unit

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1an = 1 AND I1q = 1 or I1u = 1 AND S1 = 0 AND CPS 2,3,4,5 AND Dementia care unit is IDPH certified	Alzheimer's/Dementia special care unit Alzheimer's Disease Dementia other than Alzheimer's Does not meet IDPH Subpart S criteria CPS score	15	4 RN 4 LPN	10	10

7) Exceptional Care Services**Respiratory Services**

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ai = 1 or P1aj = 1 or P1bdA = 7	Perform suctioning Administered trach care Respiratory therapy	5	15 RN 15 LPN		

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REQUEST FOR EXPEDITED CORRECTION

II	P1ai = 1 AND	Performed suctioning	5	22.5 RN 22.5 LPN		
	P1aj = 1 AND	Administered trach care				
	P1bdA > 0	Respiratory therapy				

A \$50.00 add-on cost will be applied to all residents receiving trach care.

Ventilator Care

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1a1 = 1	Receiving ventilator care	5	35 RN 35 LPN		

A \$150.00 add-on cost shall be applied to all residents receiving ventilator care. The trach add-on cost shall not be included.

Weaning From Ventilator

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1a1 = 0 on current MDS AND	Resident no longer on ventilator	5	15 RN 15 LPN		
	P1a1 = 1 on previous MDS	Resident previously on ventilator				

Morbid Obesity

Lev	MDS items	Description	Unl	Lic	SW	Act
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

I	I3 = 278.01 AND K5e = 1 AND K5h = 1 AND G1aA = 3 and G1aB=3 or G1bA=3 and G1bB=3 or G1cA=3 and G1cB=3 AND P3d=7 or P3e=7 or P3f = 7	ICD9 for morbid obesity is marked On a therapeutic diet On planned weight change program Extensive assist Requires 2+ assist with bed mobility Extensive assist Requires 2+ assist with transfers Extensive assist Requires 2+ assist with walk in room On bed mobility restorative On transfer restorative On walking restorative	20	7.5 RN 7.5 LPN	5	
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A \$40.00 add-on shall be applied to all residents meeting the Morbid Obesity category.

Complex Wounds

There are no minutes assigned to this area. It is strictly a \$15.00 add-on applied to residents meeting the following criteria.

MDS item	Description
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REQUEST FOR EXPEDITED CORRECTION

M1c or M1d = 0 AND M2a = 0 or M2b = 0 AND B1 = 1 or G1Aa = 3 or 4 or G1Ab = 3 or 4 AND any 3 of the follow: ICD 9 codes of (260, 261, 262, 263.0, 263.1, 263.2, 263.8, 263.9) ICD 9 585 I1a = 1 I1qq = 1 I1j = 1 I1x = 1 I1z = 1 I1w = 1 J5c = 1 H1a = 4 H1b = 4 J1c = 1 G6a = 1 J2a = 2 M3 = 1 AND all of the following: M5a = 1 and/or M5b = 1 AND M5c = 1 AND	Presence of stage 3 or 4 PU Type of ulcer, pressure Type of ulcer, stasis Comatose Bed mobility (extensive) Transfer (extensive) ICD 9-Malnutrition ESRD Diabetes Mellitus Renal Failure Peripheral vascular disease Paraplegia Quadriplegia Multiple Sclerosis End stage disease Incontinence of bowel Incontinence of bladder Dehydration Bedfast Pain daily History of resolved ulcers Pressure relieving device/chair Pressure relieving device/bed Turn and position
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REQUEST FOR EXPEDITED CORRECTION

M5d = 1 AND M5e = 1	Nutrition or hydration Ulcer care
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Traumatic Brain Injury

There are no minutes assigned to this area. It is strictly a \$50.00 add-on applied to residents meeting the following criteria.

MDS item	Description
I1cc = 1 AND B1 = 0 AND S1 = 0 AND E4aA = 3 and E4 a B = 1 or E4bA = 3 and E4bB = 1 or E4cA = 3 and E4cB = 1 or E4dA = 3 and E4dB = 1 or E4eA = 3 and 34eB = 1 AND P1beA = <u>10</u> AND P2a = 1 AND P2b = 1	Traumatic brain injury Not comatose Does not meet Subpart S criteria Wandering daily and alterability Verbally abusive behavioral symptoms daily and alterability Physically abusive behavioral symptoms daily and alterability Socially inappropriate/disruptive behavioral symptoms daily and alterability Resists care daily and alterability Psychological therapy Special behavior symptom evaluation Evaluation by a mental health specialist in last 90 days

8) Special Patient Need Factors

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

Communication

Count	MDS items	Description	Staff Minutes
I	C4 > 0 or C6 > 0	Deficit in making self understood Deficit in understanding others	1% of all staff time accrued in all categories from ADLs through Exceptional Care

Vision Problems

Count	MDS items	Description	Staff Minutes
I	D1 > 0 or D2a = 1 or D2b = 1	Vision impaired to Severely impaired Decreased peripheral vision Experience halos around lights, light flashes	2% of all staff time accrued in all categories from ADLs through Exceptional Care

Accident/Fall Prevention

Count	MDS items	Description	Staff Minutes
I	I1aa = 1 or O4a-d = 7 or H1b > 0 or J1f = 1 or J4a = 1 or J4b = 1 or J1n = 1 or	Seizure disorder Medications Incontinent urine Dizziness Fell in past 30 days Fell in past 31-180 days Has unsteady gait	3% of all staff time accrued in all categories from ADLs through Exceptional Care

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

E4aA > 0	Wandered in last 7 days	
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Restraint Free

Count	MDS items	Description	Staff Minutes
I	P4c > 1 or P4d > 1 or P4e > 1 And P4c = 0 and P4d = 0 and P4e = 0	In last assessment: Used trunk restraint daily in last 7 days Used limb restraint daily in last 7 days Used chair that prevents rising daily in last 7 days And in current assessment: Not used trunk restraint in last 7 days Not used limb restraint in last 7 days Not used chair that prevents rising in last 7 days	2% of all staff time accrued in all categories from ADLs through Exceptional Care

Activities

Count	MDS items	Description	Staff Minutes
I	N2 = 0 or 1 AND Any of the following checked:	Average time involved in activities	2% of all staff time accrued in all categories from ADLs through Exceptional Care

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REQUEST FOR EXPEDITED CORRECTION

G6a = 1 or	Bedfast all or most of the time
C4 > 1 or	Sometimes too rarely understood
C6 > 1 or	Sometimes too rarely understands others
E1o > 0 or	Withdrawal from activity
AA3 = 50 or	Age is 50 or younger at assessment reference date
E1p > 0 or	Reduced social interactions
E4a-eA > 0 or	Any behavioral symptoms
G4b-dB > 0 OR	Any limited ROM
N2 = 0 or 1 AND	Average time involved in activities
E2 > 0 AND	Mood persistence
E1a > 0 or	Negative statements

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

REQUEST FOR EXPEDITED CORRECTION

E1n > 0 or	Repetitive physical movements	
E4eA > 0 or	Resists care	
E1o > 0 or	Withdraws from activity	
E1p > 0 or	Reduced social interaction	
E1j > 0 or	Unpleasant mood in morning	
N1d = 1 or	Not awake all or most of the time	
E1g > 0 or	Statements that something terrible will happen	
K3a = 1 or	Weight loss	
(N1a,b,c = 1 AND	Not awake all or most of the time	
B1 = 0)	Not comatose	

(Source: Amended at 30 Ill. Reg. 15141, effective September 11, 2006; Expedited Correction at 31 Ill. Reg. _____, effective September 11, 2006)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Healthcare Purchasing Program
- 2) Code Citation: 89 Ill. Adm. Code 180
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
180.1	New Section
180.2	New Section
180.3	New Section
180.4	New Section
180.11	New Section
180.12	New Section
180.13	New Section
180.14	New Section
180.21	New Section
180.22	New Section
180.23	New Section
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: 30 Ill. Reg. 17209; November 3, 2006
- 5) Reason for the Withdrawal: The Department proposed this new Part concerning healthcare purchasing to establish the "Healthcare Purchasing Program" in accordance with the portion of Executive Order #3 (2005) that provided for the transfer of powers, duties, rights, and responsibilities related to healthcare purchasing from certain individual executive agencies (CMS, IDOC, DHS, and DVA) to HFS. The Department has, since the new Part was proposed, discovered that further study is necessary. For that reason, HFS withdraws the proposed rulemaking.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/7.2(b)

In this Notice of Public Information under Section 7.2(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/7.2(b) (2006), the Board explains why it has extended until October 1, 2007, the deadline for adoption and filing of rules in the following consolidated identical in substance rulemaking: RCRA Subtitle C Update, USEPA Amendments (January 1, 2006 though June 30, 2006) R07-5; RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 though December 31, 2006) R07-14 (consolidated). The Board has not yet adopted a proposal for public comment in this rulemaking, so there has been no *Illinois Register* publication in this consolidated docket. The Board anticipates that it will adopt a proposal for public comment at its May 3, 2007 meeting, and that the proposal will be filed by May 14, 2007 with the Secretary of State's Index Department for publication in the June 1, 2007 *Illinois Register*. If these events timely occur and no additional delay is required to adequately respond to public comments, the Board anticipates adoption of final rules at its August 23, 2007 meeting. Because the Board holds adopted RCRA Subtitle C rulemakings for 30 days for USEPA review, the Board anticipates filing the adopted amendments with the Secretary of State's Index Department by October 1, 2007.

On January 26, 2007, the Board adopted an order to consolidate these identical in substance RCRA rulemakings. In that order the Board also found it necessary to extend the one-year period for completion of these amendments. The adoption deadline, based on the first federal action in docket R07-5, originally was April 4, 2007. The Board found that the statutory one-year period in this consolidated docket was insufficient for completion of the amendments.

The Board was unable to initiate this rulemaking earlier due to the unusually high demands on staff resources over the last several months as a result of a greatly increased volume of complex federal rulemaking, *e.g.* the very recently completed consolidated underground injection control, municipal solid waste landfill, and hazardous waste update docket, R06-16/R06-17/R06-18. Additionally, the consolidated rulemakings involves a large volume of text. While the consolidation of the rulemaking dockets added to the volume of the rulemaking, the Board found that the closely related subject matter in the two dockets would be best if handled at the same time, especially as there is some overlap in the provisions involved in the separate federal actions.

OFFICE OF THE STATE TREASURER

NOTICE OF PUBLIC INFORMATION

NOTICE OF NAMES OF PERSONS APPEARING
TO BE OWNERS OF ABANDONED PROPERTY WHOSE
LAST KNOWN ADDRESSES ARE IN CERTAIN STATES

Pursuant to Public Act 91-0016, the Illinois State Treasurer's Office is publishing the names and last known addresses of abandoned property owners whose last known addresses are allegedly in a state other than Illinois. The other state does not have a reciprocity arrangement with Illinois.

If your name or that of a person you represent appears below, you may contact this Agency for further information about the assets.

INQUIRIES MUST BE IN WRITING. The written inquiry should include the name and address as listed, and the correct name and address for reply. If inquiring about a name other than your own, you must indicate your authority to act on behalf of that person.

Address written inquiries to:

ILLINOIS STATE TREASURER'S OFFICE
UNCLAIMED PROPERTY DIVISION
P.O. Box 19495
Springfield, Illinois 62794-9495

AUTHORITY: Implementing and required by the Illinois Uniform Disposition of Unclaimed Property Act (765 ILCS 1025/12).

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KHAN MUNAWAR	47 EAST ST HAMILTON ON L8L 6L1	CANADA
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LINDGREEN JACOB	F48 NORTHFIELD RD FLEET HANTS GU13 OED	UNITED KINGDOM
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LU YOU YANG	17 MAPLE GROVE AVE TORONTO ONTARIO	CANADA
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MACIASZ ELIZABETH	2034 DUTRISAC	ST LAURENT
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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 30, 2007 through February 5, 2007 and have been scheduled for review by the Committee at its March 13, 2007 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/14/07	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	10/13/06 30 Ill. Reg. 16173	3/13/07
3/14/07	<u>Department of Human Services</u> , General Administrative Provisions (89 Ill. Adm. Code 10)	11/3/06 30 Ill. Reg. 17175	3/13/07
3/14/07	<u>Department of Human Services</u> , Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	11/3/06 30 Ill. Reg. 17181	3/13/07
3/14/07	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	11/3/06 30 Ill. Reg. 17194	3/13/07
3/15/07	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	11/17/06 30 Ill. Reg. 18077	3/13/07
3/17/07	<u>State Board of Elections</u> , Procurement (Repealer) (44 Ill. Adm. Code 2600)	11/3/06 30 Ill. Reg. 17230	3/13/07
3/17/07	<u>State Board of Elections</u> , State Board of Elections Procurement Rules (44 Ill. Adm. Code	11/3/06 30 Ill. Reg.	3/13/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	2600)	17233	
3/21/07	<u>Drycleaner Environmental Response Trust Fund</u> <u>Council</u> , General Program (35 Ill. Adm. Code 1500)	12/8/06 30 Ill. Reg. 18801	3/13/07

PROCLAMATIONS

2007-21 (Revised)
WOMEN'S HEALTHY HEART MONTH

- WHEREAS, heart disease is the leading cause of death for American women, claiming the lives of almost 500,000 women per year, at a rate of almost one per minute; and
- WHEREAS, in Illinois alone, the year 2004 saw 14,534 deaths in women due to diseases of the heart; and
- WHEREAS, the majority of women are not aware of their risk factors for a heart attack, nor are they aware of the signs and symptoms of a heart attack; and
- WHEREAS, risk factors for a heart attack are: tobacco use, high blood cholesterol, high blood pressure, physical inactivity, diabetes and obesity; and
- WHEREAS, symptoms of heart attack are: uncomfortable pressure, squeezing, fullness or pain in the center of the chest that lasts more than a few minutes, or goes away and comes back; pain or discomfort in one or both arms, the back, neck, jaw, stomach; shortness of breath along with, or before, chest discomfort; and cold sweat, nausea or lightheadedness; and
- WHEREAS, it is critical that we, as a country and state, work to empower women and increase their awareness of the many things they can do to reduce their risk of heart disease; and
- WHEREAS, this includes exercising regularly, eating healthy meals and snacks, loving their body and taking time for themselves; and
- WHEREAS, February of each year is nationally recognized as American Heart Month, Go Red for Women, and this year in Illinois, we want to give special emphasis to women's heart health by declaring that February 2007 be Women's Healthy Heart Month; and
- WHEREAS, in addition, on February 2, 2007, we are proud to be joining various heart health organizations across the country in encouraging people to wear red in support of the continued efforts to raise awareness of heart disease among women in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the month of February 2007 as **WOMEN'S HEALTHY HEART MONTH** in Illinois, and urge all citizens, especially women, to familiarize themselves with the signs, symptoms and treatments for heart disease, as well as the steps they can take to ensure themselves good heart health.

PROCLAMATIONS

Issued by the Governor on January 29, 2007.
Filed by the Secretary of State February 2, 2007.

2007-23

PERIANESTHESIA NURSE AWARENESS WEEK

WHEREAS, perianesthesia nursing is a specialized nursing practice dealing in all phases of preanesthesia and postanesthesia care, ambulatory surgery and pain management; and

WHEREAS, the depth and breadth of the perianesthesia nursing profession meets the varied and emerging health care needs of the American population in a diversified range of environments; and

WHEREAS, the demand for perianesthesia nurses will only increase due to an aging American population and advances in medicine that are prolonging life. Consequently, the role of these nurses is essential and vital in the quality of health care and safety of patients in hospital and ambulatory surgery settings; and

WHEREAS, there are more than 49,000 perianesthesia nurses in the United States. The American Society of PeriAnesthesia Nurses represents them and is one of our nation's premier specialty nursing organizations; and

WHEREAS, their mission is to advance the field of nursing by providing education, conducting research and developing professional standards of practice for their field; and

WHEREAS, the Illinois Society of PeriAnesthesia Nurses, founded in 1976 as a branch of the American Society, also represents perianesthesia nurses and promotes quality and cost-effective care for their patients; and

WHEREAS, the Illinois Society of PeriAnesthesia Nurses, in conjunction with the American Society of PeriAnesthesia Nurses, will recognize perianesthesia nurses during PeriAnesthesia Nurse Awareness Week, with the theme, "Perianesthesia Nurses...Our Journey to Excellence:"

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 4-10, 2007 as **PERIANESTHESIA NURSE AWARENESS WEEK** in Illinois, and join the American and Illinois Society of PeriAnesthesia Nurses in recognition of perianesthesia

PROCLAMATIONS

nurses for their indispensable service to the medical profession, as well as quality care and treatment of patients.

Issued by the Governor on January 29, 2007.

Filed by the Secretary of State February 2, 2007.

2007-24

RONALD REAGAN DAY

WHEREAS, Ronald Wilson Reagan was born on February 6, 1911 in Tampico, Illinois. He attended high school in Dixon, Illinois and went on to earn a degree in economics and sociology from Eureka College, where he also played on the football team and acted in theatre productions; and

WHEREAS, Reagan began his career as a radio sports announcer, calling games for the University of Iowa, and later for the Chicago Cubs. In 1937, a screen test won him a contract in Hollywood and over the next two decades, he would appear in 53 feature films; and

WHEREAS, Reagan's success as an actor, coupled with his strong leadership abilities, earned him the opportunity to serve as President of the Screen Actors Guild. It was in that role that Reagan got his first taste of political life; and

WHEREAS, in 1966, Reagan was elected Governor of California by a one million vote margin and was re-elected to serve a second term in 1970; and

WHEREAS, with eight years of governorship under his belt, Ronald Reagan won the Republican Presidential nomination in 1980 and in November of that year, he went on to defeat incumbent President Jimmy Carter in the General Election to earn the Presidency; and

WHEREAS, on January 20, 1981, Reagan was sworn in as the 40th President of the United States and was re-elected to a second term in 1984. In his eight years in office, President Reagan worked to stimulate economic growth, curb inflation, increase employment, and strengthen national defense. He also made foreign policy a top priority and sought to achieve "peace through strength," improving relations with the Soviet Union by conducting several meetings with Soviet leader Mikhail Gorbachev, and eventually negotiating a treaty that would eliminate intermediate range nuclear missiles; and

PROCLAMATIONS

WHEREAS, President Reagan's great charisma and people skills allowed him to connect with the nation and earned him the title of "The Great Communicator;" and

WHEREAS, in November of 1994, Reagan publicly announced that he had Alzheimer's disease. Almost ten years later, on June 5, 2004, he passed away at the age of 93; and

WHEREAS, President Reagan is remembered as a strong and confident leader. He left behind a legacy that will clearly resonate in this country and throughout the world for centuries to come:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 6, 2007 as **RONALD REAGAN DAY** in Illinois, in recognition of the birthday of this accomplished Illinois native.

Issued by the Governor on January 29, 2007.

Filed by the Secretary of State February 2, 2007.

2007-25**METROPOLITAN FAMILY SERVICES DAY**

WHEREAS, Metropolitan Family Services (MFS) provides low-income and working poor families with a wide range of programs and services, including support in the areas of child and youth development, counseling and mental health, child welfare, financial literacy, legal aid, and services for older adults and their families; and

WHEREAS, with 570 full-time professional staff dedicated to providing quality services to families throughout Chicago's city and suburban communities, MFS is helping nearly 60,000 families and individuals; and

WHEREAS, MFS has seven community centers that provide a full range of services, and several of those centers have additional locations; and

WHEREAS, this year, MFS is celebrating their 150th anniversary year since being founded on February 16, 1857:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 16, 2007 as **METROPOLITAN FAMILY SERVICES DAY** in Illinois in recognition of their 150th anniversary.

PROCLAMATIONS

Issued by the Governor on January 29, 2007.
Filed by the Secretary of State February 2, 2007.

2007-26**CONGENITAL HEART DEFECT AWARENESS WEEK**

- WHEREAS, congenital heart defects, the most common type of major birth defect and the leading cause of birth defect related deaths, develop during pregnancy when a baby's heart fails to form properly, resulting in structural abnormalities; and
- WHEREAS, every year, approximately 40,000 babies in the United States, including about 2,000 in Illinois, are born with congenital heart defects, resulting in thousands of families across America facing the challenge and hardship of raising children with this birth defect; and
- WHEREAS, congenital heart defects are still a little known problem and, as a result, congenital heart defects may not be diagnosed until months or years after birth; and
- WHEREAS, those born with congenital heart defects are usually not diagnosed and treated until later, which creates complications and concerns; and
- WHEREAS, many deaths of young athletes due to cardiac arrest are attributed to treatable congenital heart defects that go undiagnosed; and
- WHEREAS, the proper treatment for those with a congenital heart defect can mean living a healthy life well in to adulthood; and
- WHEREAS, by raising awareness about congenital heart defects and the importance of early detection and treatment, we can save countless lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 7-14, 2007 as **CONGENITAL HEART DEFECT AWARENESS WEEK** in Illinois to promote early detection and treatment of the problem.

Issued by the Governor on January 31, 2007.
Filed by the Secretary of State February 2, 2007.

2007-27**INTERNATIONAL MOTHER LANGUAGE DAY**

PROCLAMATIONS

WHEREAS, there are close to 6,000 languages estimated to be spoken in today's world. About half of those languages are under threat of disappearing forever; and

WHEREAS, in the 1956 Pakistan Constitution, Bengali and Urdu were declared as state languages of Pakistan. In the constitution of Bangladesh, adopted in 1972, it is stated, "The Language of the Republic would be Bengali." In Bangladesh, efforts continue to establish Bangla in all walks of life; and

WHEREAS, International Mother Language Day, which is celebrated on February 21st every year, was launched at the 30th session of the General Conference of UNESCO in 1999; and

WHEREAS, the existence of different languages in a culture allows us to gain a different perspective of its history and illuminates the outstanding ability of any culture to create communication; and

WHEREAS, like previous years, International Mother Language Day aims at promoting linguistic diversity and multilingual education, and at raising awareness of linguistic cultural traditions based on understanding, tolerance and dialogue:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 21, 2007 as **INTERNATIONAL MOTHER LANGUAGE DAY** in Illinois, and encourage all citizens to recognize the value that languages have in understanding our shared cultural history.

Issued by the Governor on January 31, 2007.

Filed by the Secretary of State February 2, 2007.

2007-28**CHICAGO BEARS WEEK**

WHEREAS, the 2006 season for the Chicago Bears was one to remember. Not suffering a defeat until Week Nine, the Bears finished the regular season with a NFC best 13-3 record, earning a first round playoff bye and home field advantage all throughout the NFC playoffs; and

WHEREAS, the Bears' tough, hard-nosed play became evident during the season's first game, as they beat the rival Green Bay Packers in stunning, shut-out fashion. After six more consecutive wins, not only Bears fans but football experts and enthusiasts all across the country began to hail them as one of the elite teams in the NFL; and

PROCLAMATIONS

- WHEREAS, the Chicago Bears' remarkable season was characterized by stellar team play, boasting the NFL's second ranked offense; a swarming defense; and a special teams squad that produced three Pro Bowl players; and
- WHEREAS, the City of Chicago rallied their beloved Bears all the way to the NFC Championship game, where they defeated the New Orleans Saints by a 39-15 score and stamped their ticket to Super Bowl XLI; and
- WHEREAS, with the win against the Saints, Bears Head Coach Lovie Smith became the first African American Head Coach to lead a team to the Super Bowl. Joining him mere hours later as the second man to earn the distinction was Indianapolis Colts Head Coach Tony Dungy. During this month of February, which is commemorated across the country as African American History Month, we pay tribute to Coach Smith and Coach Dungy for these historic achievements; and
- WHEREAS, on February 4, 2007, despite a valiant Chicago effort, Tony Dungy's Colts defeated Lovie Smith's Bears in the Super Bowl by a score of 29-17. While the Bears will come home one win short of the title, they should feel nothing but pride in the effort they put forth all season, and in knowing that they will begin next season as the defending NFC Champions; and
- WHEREAS, this State is honored to pay tribute to the Bears for their remarkable 2006 season, and we thank them for representing Illinois and Chicago with class, dignity, and a winning spirit:
- THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 5 – 11, 2007 as **CHICAGO BEARS WEEK** in Illinois in recognition of their tremendous 2006 season.

Issued by the Governor on February 5, 2007.

Filed by the Secretary of State February 5, 2007.

ILLINOIS ADMINISTRATIVE CODE

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