

# 2009

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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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.].

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
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14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
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38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
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45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing of Radioactive Material
- 2) Code Citation: 32 Ill. Adm. Code 330
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
330.260	Amendment
330.280	Amendment
- 4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments clarify the credentialing process for facilities and persons authorized to manufacture or prepare radiopharmaceuticals. It also clarifies what medical sources are authorized for distribution. The proposed amendments to 32 Ill. Adm. Code 330.260(c) incorporate language for compatibility with federal standards under 10 CFR 32.72(a)(2)(i-iv) and 32.72(b) for manufacturing of radiopharmaceuticals including accelerator produced materials. The proposed amendments to 32 Ill. Adm. Code 330.280(k) and (k)(3) ensure that all possible medical sources prepared for distribution are addressed including a new category of sources, 'emerging technologies'. These changes are considered Compatibility B by the U.S. Nuclear Regulatory Commission and must be adopted essentially verbatim by the Agency in order to maintain its 'Agreement State' status. This rulemaking will not change operations for any licensees currently in Illinois. These requirements are already part of the established Agency radioactive materials licensing process using U.S. FDA and U.S NRC recommendations.

Section 31 of the Radiation Protection Act of 1990 [420 ILCS 40/31] provides that the Agency is exempt from rulemaking procedures in the Illinois Administrative Procedure Act when regulations that are identical in substance are necessary to implement, secure, or maintain federal authorization for a program. After consideration of comments from the appropriate federal agency, the Agency may adopt the verbatim text of the laws, regulations, or orders as necessary and appropriate for authorization or maintenance of the program. The NRC has reviewed the proposed amendments and has indicated that these amendments are needed to ensure compatibility with 10 CFR 32.72 and 32.74. Because this rulemaking is not subject to the Illinois Administrative Procedure Act, and in accordance with Section 31, this rulemaking will become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the *Illinois Register*.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? No studies or reports were used in drafting this amendment to 32 Ill. Adm. Code 330.
- 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: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their 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: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:
- Kevin McClain  
Chief Legal Counsel  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704
- 217/524-0770 (voice)  
217/782-6133 (TDD)
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: This rulemaking will not affect any licensees in Illinois. These requirements are currently part of the radioactive licensing process. The language was added for federal compatibility only.

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ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 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 2008

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

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 32: ENERGY

## CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

## SUBCHAPTER b: RADIATION PROTECTION

## PART 330

## LICENSING OF RADIOACTIVE MATERIAL

## SUBPART A: GENERAL PROVISIONS

Section	
330.10	Purpose and Scope
330.15	Incorporations by Reference
330.20	Definitions
330.30	License Exemption – Source Material
330.40	License Exemption – Radioactive Materials Other Than Source Material

## SUBPART B: TYPES OF LICENSES

Section	
330.200	Types of Licenses
330.210	General Licenses – Source Material
330.220	General Licenses – Radioactive Material Other Than Source Material

## SUBPART C: SPECIFIC AND GENERAL LICENSES

Section	
330.240	Filing Applications for Specific Licenses
330.250	General Requirements for the Issuance of Specific Licenses
330.260	Special Requirements for Issuance of Certain Specific Licenses for Radioactive Materials
330.270	Special Requirements for Specific Licenses of Broad Scope
330.280	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material
330.290	Requirements for Emergency Plans
330.300	Issuance of Specific Licenses
330.310	Terms and Conditions of Specific and General Licenses
330.320	Renewal Requirements for Specific Licenses
330.325	Termination Requirements for Specific Licenses and Locations of Use

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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330.330	Renewal of Licenses
330.340	Amendment of Licenses at Request of Licensee
330.350	Agency Action on Application to Renew or Amend
330.360	Persons Possessing a License for Source, Byproduct, or Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass on Effective Date of This Part (Repealed)
330.370	Persons Possessing Accelerator-Produced or Naturally-Occurring Radioactive Material on Effective Date of This Part (Repealed)
330.400	Transfer of Material
330.500	Modification and Revocation of Licenses
330.900	Reciprocal Recognition of Licenses
330.950	Nationally Tracked Sources

## SUBPART D: TRANSPORTATION

## Section

330.1000	Transportation of Radioactive Materials (Repealed)
330.APPENDIX A	Exempt Concentrations
330.APPENDIX B	Exempt Quantities
330.APPENDIX C	Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release
330.TABLE A	Group I (Repealed)
330.TABLE B	Group II (Repealed)
330.TABLE C	Group III (Repealed)
330.TABLE D	Group IV (Repealed)
330.TABLE E	Group V (Repealed)
330.TABLE F	Group VI (Repealed)
330.APPENDIX D	Limits for Broad Licenses (Section 330.270)
330.APPENDIX E	List of Specialty Board Certifications Recognized by the Agency Until October 24, 2007 (Repealed)
330.APPENDIX F	Nationally Tracked Source Thresholds
330.APPENDIX G	Financial Surety Arrangements (Section 330.250(c)(1)(D)) (Repealed)
330.APPENDIX H	Wording of Financial Surety Arrangements (Section 330.250(c)(1)(E)) (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed April 20, 1974, by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 5 Ill. Reg. 9586, effective September 10, 1981; codified at 7 Ill. Reg. 17492; recodified at 10 Ill. Reg. 11268; amended at 10 Ill. Reg. 17315, effective September 25, 1986; amended at 15 Ill. Reg. 10632, effective July 15, 1991; amended at 18 Ill. Reg. 5553, effective March 29, 1994; emergency amendment at 22 Ill. Reg. 6242, effective March 18, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14459, effective July 27, 1998; amended at 24 Ill. Reg. 8042, effective June 1, 2000; amended at 27 Ill. Reg. 5426, effective March 17, 2003; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 30 Ill. Reg. 8928, effective April 28, 2006; amended at 32 Ill. Reg. 6462, effective April 7, 2008; amended at 32 Ill. Reg. 9199, effective June 13, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: SPECIFIC AND GENERAL LICENSES

**Section 330.260 Special Requirements for Issuance of Certain Specific Licenses for Radioactive Materials**

- a) Specific Licenses to Medical Institutions for Human Use of Radioactive Material. A specific license allowing a medical institution to use radioactive material for medical diagnosis, medical therapy, or medical research involving humans shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 335.
- b) Specific Licenses to Individual Physicians for Human Use of Radioactive Material. An application by an individual physician or group of physicians for a specific license for human use of radioactive material shall be approved only if:
  - 1) The applicant satisfies the general requirements specified in this Part;
  - 2) The application is for use in the applicant's practice in an office outside a medical institution; and
  - 3) The applicant has met the requirements of 32 Ill. Adm. Code 335.
- c) Specific Licenses for Distribution or Transfer of Radiopharmaceuticals. In addition to the requirements set forth in this Part, persons licensed by the Agency for manufacture, preparation, or transfer for commercial distribution of radiopharmaceuticals containing radioactive material for medical use under 32 Ill.

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Adm. Code 335 shall meet the following additional requirements:

- 1) The applicant satisfies the general requirements specified in Section 330.250 of this Part;
- 2) The applicant submits evidence that the applicant is at least one of the following:
  - A) Registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding or processing of a drug under 21 CFR 207.20(a);
  - B) Registered or licensed with a state agency as a drug manufacturer;
  - C) Licensed as a pharmacy by a state Board of Pharmacy; or
  - D) Operating as a nuclear pharmacy within a Federal medical institution;
- ~~3)~~ 32) The applicant submits information showing that:
  - A) The radiopharmaceutical containing radioactive material will be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or
  - B) The manufacture and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;
- ~~4)~~ 3) ~~The applicant submits information on the radionuclide, chemical and physical form, packaging, including maximum activity per package, and shielding provided by the packaging of the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by specific licensees;~~
- ~~5)~~ 4) ~~The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, activity and activity assay date and the~~

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENTS

~~label affixed to each package, or the leaflet or brochure that accompanies each package, contains a statement that the radiopharmaceutical is licensed by the Agency for distribution to persons licensed pursuant to subsection (a) of this Section for radioactive material specified in 32 Ill. Adm. Code 335.3010, 335.4010 or 335.5010, as appropriate, or under equivalent licenses of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The labels, leaflets or brochures required by this subsection (c)(4) are in addition to the labeling required by the U.S. Food and Drug Administration (FDA) and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA;~~

- 45) The applicant submits information on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees;
- 56) The applicant satisfies the following labeling requirements:
- A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL"; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.
  - B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label;
- 6) A licensee described by subsection (c)(2)(C) or (D) of this Section:

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- A) May prepare radioactive drugs for medical use, as defined in 32 Ill. Adm. Code 335.20, provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in subsections (c)(6)(B) and (C) of this Section, or an individual under the supervision of an authorized nuclear pharmacist as specified in subsection (c)(15). Actions authorized in this subsection (c)(6)(A) are permitted in spite of more restrictive language in license conditions.
- B) May allow a pharmacist to work as an authorized nuclear pharmacist if the conditions of subsections (c)(6)(B)(i) through (iii) are met. Actions authorized in this subsection (c)(6)(A) are permitted in spite of more restrictive language in license conditions.
- i) This individual qualifies as an authorized nuclear pharmacist as defined in Section 330.20;
- ii) This individual meets the requirements specified in subsections (c)(18)(B) and (c)(21), and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or
- iii) This individual is designated as an authorized nuclear pharmacist in accordance with subsection (c)(6)(C).
- C) May designate a pharmacist (as defined in Section 330.20) as an authorized nuclear pharmacist if:
- i) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material; and
- ii) The individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC.

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D) Shall provide to the Agency a copy of the State pharmacy licensure prior to allowing, under subsections (c)(6)(B)(i) and (iii), the individual to work as an authorized nuclear pharmacist and:

i) A copy of each individual's certification by a specialty board whose certification process has been recognized by the NRC or an Agreement State as specified in subsection (c)(18)(A) with the written attestation signed by a preceptor as required by subsection (c)(18)(B)(iii); or

ii) An NRC or Agreement State license; or

iii) NRC master materials licensee permit; or

iv) The permit issued by a licensee or NRC master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

v) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC;

7) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

A) Perform tests, before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

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- B) Check each instrument for constancy and proper operation at the beginning of each day of use;
- 8) Nothing in this Section relieves the licensee from complying with applicable FDA, other Federal and State requirements governing radioactive drugs;
  - 9) Radiopharmaceuticals dispensed, distributed or transferred for human use shall be either:
    - A) Repackaged from prepared radiopharmaceuticals that have been approved by the FDA for medical use as defined in 32 Ill. Adm. Code 335.20; or
    - B) Prepared from generators and reagent kits that have been approved by the FDA for medical use, or are subject to the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] or the Pharmacy Practice Act of 1987 [225 ILCS 85];
  - 10) The licensee shall perform radiometric tests for molybdenum breakthrough for the first elute of a molybdenum-99/technetium-99m generator following transfer in accordance with the requirements of 32 Ill. Adm. Code 335;
  - 11) The licensee may distribute in vitro test kits to customers but shall neither remove any package insert nor violate the packaging;
  - 12) The licensee shall report to the Agency, within 10 days after occurrence, any irregularities pertaining to identification, labeling, quality or assay of any radiopharmaceuticals received under the authority of this license;
  - 13) For licensees authorized to dispense radiopharmaceuticals (such as nuclear pharmacies), the licensee shall ensure radiopharmaceuticals are dispensed only under the prescription of a physician who is authorized in a specific license to use the radiopharmaceuticals. The licensee shall maintain a copy of the recipient's radioactive material license and shall verify that the physician is authorized to receive the prescribed radiopharmaceutical prior to transfer;

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- 14) A licensee shall apply for and must receive a license amendment before it receives, prepares, or uses radioactive material for a type of use that is permitted under this Part, but that is not authorized on the licensee's current license issued under this Part;
- 15) Individuals Under Supervision of an Authorized Nuclear Pharmacist
- A) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist who is an authorized user shall:
- i) In addition to the requirements in 32 Ill. Adm. Code 400.120, instruct the supervised individual in the preparation of radiopharmaceutical material for medical use, as appropriate to that individual's involvement with radioactive material; and
- ii) Require the supervised individual to follow the instructions of the supervising authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the regulations of this Section, and license conditions.
- B) A licensee that permits supervised activities under of this subsection (c)(15) is responsible for the acts and omissions of the supervised individual;
- 16) A licensee shall apply for and must receive a license amendment identifying an authorized nuclear pharmacist as defined in [Section 32 Ill. Adm. Code 330.20](#), and the individual meets the requirements in [subsections 330.260\(c\)\(18\) and \(c\)\(21\)](#) or, for an experienced nuclear pharmacist, [subsection 330.260\(c\)\(20\)](#), before it allows this individual to work as an authorized nuclear pharmacist;
- 17) The licensee shall require an individual fulfilling the responsibilities of Radiation Safety Officer to be an individual who:

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- A) Is certified by a specialty board whose certification has been recognized by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State and who meets the requirements in subsections [\(c\)\(17\)\(D\)](#) and [\(E\)](#) ~~of this section~~. To be recognized, a specialty board shall require all candidates for certification to meet the following requirements:
- i) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
  - ii) Have 5 or more years of professional experience in health physics (graduate training may be substituted for no more than 2 years of the required experience), including at least 3 years in applied health physics; and
  - iii) Pass an examination administered by diplomats of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology and radiation dosimetry; or
- B) Has met the requirements of subsections [\(c\)\(17\)\(D\)](#) and [\(E\)](#) ~~of this Section~~ and completed a structured educational program consisting of:
- i) 200 hours of didactic training in the following areas: radiation physics and instrumentation; radiation protection; mathematics pertaining to the use and measurement of radioactivity; radiation biology; radiation dosimetry; ~~and~~
  - ii) 1 year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on an Agency, U.S. Nuclear Regulatory Commission, Agreement State or Licensing State license or permit issued by the U.S. Nuclear Regulatory Commission master material licensee that authorizes similar types and

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uses of radioactive material involving shipping, receiving and performing related radiation monitoring;

- iii) Using and performing checks for proper operation of instruments used to determine the activity of dosages, instruments used to measure radionuclides and survey meters;
  - iv) Securing and controlling radioactive material;
  - v) Using administrative controls to avoid mistakes in the administration of radioactive material;
  - vi) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
  - vii) Using emergency procedures to control radioactive material; and
  - viii) Disposing of radioactive material; or
- C) Is an authorized nuclear pharmacist identified on the licensee's license, meets the requirements of subsections [\(c\)\(17\)\(D\)](#) and [\(E\) of this Section](#) and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; and
- D) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist Radiation Safety Officer, that the individual has satisfactorily completed the requirements in [subsections](#)~~Subsection~~ [\(c\)\(17\)\(E\)](#) and ~~subsections~~ [\(c\)\(17\)\(A\)\(i\)](#) and [\(ii\)](#) or [\(c\)\(17\)\(B\)](#) or [\(C\)](#) ~~of this Section~~ and has achieved a level of radiation safety knowledge sufficient to function independently as an authorized nuclear pharmacist Radiation Safety Officer; and
- E) Has training in the radiation safety, regulatory issues and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by

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completing training that is supervised by a Radiation Safety Officer or authorized nuclear pharmacist, as appropriate, who is authorized for the types of use for which the licensee is seeking approval.;

- 18) Before a licensee permits anyone to work as an authorized nuclear pharmacist under his or her license, except for subsection (c)(19) ~~of this Section~~, the licensee shall require the authorized nuclear pharmacist to be a State of Illinois licensed pharmacist who:
- A) Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State and who meets the requirements in ~~subsections~~ ~~(c)(18)(B)(iii) of this subsection~~. To be recognized, a specialty board shall require all candidates for certification to meet the following requirements:
- i) Has graduated from a pharmacy program accredited by the American Council of Pharmaceutical Education ACPE or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
  - ii) Hold a current, active license to practice pharmacy;
  - iii) Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and
  - iv) Pass an examination in nuclear pharmacy, administered by the diplomats of the specialty board, that assessed knowledge and competency in the procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, and research and development; or

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- B) Has completed 700 hours in a structured educational program consisting of both didactic training in radiation physics and instrumentation or radiation protection; with:
- i) 200 hours of didactic training in radiation physics and instrumentation; radiation protection; mathematics pertaining to the use and measurement of radioactivity; chemistry of radioactive material for medical use; radiation biology; and
  - ii) Supervised practical experience in a nuclear pharmacy involving shipping, receiving, and performing related radiation surveys; using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides; calculating, assaying, and safely preparing dosages for patients or human research subjects; use of administrative controls to avoid medical events in the administration of byproduct material; use of procedures to prevent or minimize radioactive contamination and use of proper decontamination procedures; and:
  - iii) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection [\(c\)\(18\)\(A\)\(i\)-\(iii\)](#) or [\(B\) of this Section](#) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist;
- 19) An individual identified as an authorized nuclear pharmacist on an Agency, U.S. Nuclear Regulatory Commission, Agreement State or Licensing State license or permit issued by an Agency, U.S. Nuclear Regulatory Commission, Agreement State broad scope licensee or master materials license permit or by a master materials license permittee of broad scope;
- 20) Training for Experienced Nuclear Pharmacist. A State of Illinois licensed pharmacist who has completed a structured educational program as

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specified in subsection (c)(18)(B) ~~of this Section~~ before October 24, 2007 and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements for a preceptor statement and recentness of training to qualify as an authorized nuclear pharmacist;

21) Recentness of Training. The training and experience specified in subsection (c)(18) ~~of this Section~~ must have been obtained within the 7 years preceding the date of application or the individual must have had related continuing education and experience since the required training and experience was completed;

22) Resolution of Conflicting Requirements During Transition Period  
A) If this Part conflicts with the licensee's radiation safety program as identified in its license, this Part shall apply, unless the statements, representations, conditions and procedures in the license are more restrictive. However, if the licensee exercises its privilege to amend its license, the portion amended must comply with the requirements of this Part.

d) Use of Sealed Sources in Industrial Radiography. A specific license for use of sealed sources in industrial radiography shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 350 and 405.

e) Use of Radioactive Materials in Wireline Service Operations and Subsurface Tracer Studies. A specific license for use of radioactive material in wireline operations shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 351.

AGENCY NOTE: Specialty Boards whose certification processes have been recognized by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be posted on the NRC's Web page.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 330.280 Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**

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- a) Licensing the Introduction of Radioactive Material into Products in Exempt Concentrations
- 1) In addition to the requirements set forth in Section 330.250, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material to persons exempted from this Part pursuant to Section 330.30 or 330.40(a) will be issued if:
    - A) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material and estimated concentration of the radioactive material in the product or material at the time of transfer; and
    - B) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Appendix A, that reconcentration of the radioactive material in concentrations exceeding those in Appendix A is not likely, that use of lower concentrations is not feasible and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
  - 2) Each person licensed under subsection (a) is required to maintain records of transfer of material and shall file a report with the Agency that shall identify the following:
    - A) Type and quantity of each product or material into which radioactive material has been introduced during the reporting period;

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- B) Name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction;
  - C) The radionuclide, activity and activity assay date of radioactive material introduced into each product or material; and
  - D) The initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee.
- 3) The licensee shall file the report within 30 days following:
- A) 5 years after filing the preceding report; or
  - B) Filing an application for renewal of the license under Section 330.330; or
  - C) Notifying the Agency under Section 330.320(b) of the licensee's decision to permanently discontinue activities authorized under the license issued under this subsection (a).
- 4) The report shall cover the period between the filing of the preceding report and an occurrence specified in subsection (a)(3). If no transfers of radioactive material have been made under subsection (a) during the reporting period, the report shall so indicate.
- 5) The licensee shall maintain the record of a transfer for a period of 1 year after the event has been included in a report to the Agency.
- b) Licensing the Distribution of Radioactive Material in Exempt Quantities

AGENCY NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

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- 1) An application for a specific license to distribute NARM to persons exempted, pursuant to Section 330.40(b) of this Part, will be approved if:
  - A) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;
  - B) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and
  - C) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.
- 2) The license issued under subsection (b)(1) of this Section is subject to the following conditions:
  - A) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantities provided the sum of the fractions shall not exceed unity.
  - B) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to Section 330.40(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 5 microSv (500 microrem) per hour.
  - C) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label that:
    - i) Identifies the radionuclide and activity; and

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- ii) Bears the words "Radioactive Material".
- D) In addition to the labeling information required by subsection (b)(2)(C) of this Section, the label affixed to the immediate container, or an accompanying brochure, shall:
- i) State that the contents are exempt from Licensing State requirements;
  - ii) Bear the words "Radioactive Material – Not for Human Use – Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited – Exempt Quantities Should Not Be Combined"; and
  - iii) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.
- 3) Each person licensed under this subsection (b) is required to maintain records and file reports as follows:
- A) Records of transfer of material identifying, by name and address, each person to whom radioactive material is transferred for use under Section 330.40(b) of this Part or the equivalent regulations of an Agreement State, or a Licensing State and stating the kinds and quantities of radioactive material transferred. The licensee shall maintain the record of a transfer for a period of 1 year after the event is included in a summary report to the Agency.
  - B) The licensee shall file a summary report stating the total activity of each radioisotope transferred under the specific license with the Agency.
  - C) The licensee shall file the summary report within 30 days following:
    - i) 5 years after filing the preceding report; or

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- ii) Filing an application for renewal of the license under Section 330.330 of this Part; or
  - iii) Notifying the Agency under Section 330.320(b) of this Part of the licensee's decision to permanently discontinue activities authorized under the license issued under subsection (b) of this Section.
- D) The report shall cover the period between the filing of the preceding report and an occurrence specified in subsection (b)(3)(C) of this Section. If no transfers of radioactive material have been made under subsection (b) of this Section during the reporting period, the report shall so indicate.
- c) Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors. An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under Section 330.40(c)(3) of this Part will be approved if the application satisfies requirements equivalent to those contained in 10 CFR 32.26, published January 1, 1993, exclusive of subsequent amendments or editions. The maximum activity of radium-226 in each device shall not exceed 3.7 kBq (100 nCi).
- d) Licensing the Manufacture and Distribution of Devices to Persons Generally Licensed Under Section 330.220(b) of this Part

AGENCY NOTE: Section 330.280(n) of this Part contains requirements for radioactive material transfer reports and records.

- 1) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under Section 330.220(b) of this Part or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:
- A) The applicant satisfies the general requirements of Section 330.250 of this Part.

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B) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions and potential hazards of the device to provide reasonable assurance that:

- i) The device can be safely operated by persons not having training in radiological protection;
- ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device and it is unlikely that any person will receive in 1 year a dose in excess of 10 percent of the annual limits specified in 32 Ill. Adm. Code 340.210(a); and
- iii) Under accident conditions such as fire and explosion associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active  
 blood-forming organs; gonads or  
 lens of eye ..... 150 mSv (15 rem)

Hands and forearms; feet and ankles  
 or localized areas of skin averaged  
 over areas no larger than 1 square  
 centimeter..... 2 Sv (200 rem)

Other organs ..... 500 mSv (50 rem).

C) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, that contain in a clearly identified and separate statement:

- i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device.

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Documents such as operating and service manuals may be identified in the label and used to provide this information;

- ii) The requirement, or lack of requirement, for testing for leakage or contamination, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by radionuclide, activity and activity assay date; and
- iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

Devices Containing Radioactive Material Other Than Naturally Occurring Radioactive Material

The receipt, possession, use and transfer of this device, Model \_\_\_, Serial No. 9199\_, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL  
Name of Manufacturer or Distributor

AGENCY NOTE: The model, serial number and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

Devices Containing Naturally-Occurring Radioactive Material

The receipt, possession, use and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_ are subject to a

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general license or the equivalent and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

## CAUTION – RADIOACTIVE MATERIAL

AGENCY NOTE: The model, serial number and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

- D) Each device having a separable source housing that provides the primary shielding for the source also bears on the source housing a durable label displaying the device model and serial number, the radionuclide and activity, the words "Caution – Radioactive Material", the radiation symbol described in 32 Ill. Adm. Code 340.Illustration A and the name of the manufacturer or distributor.
  - E) Each device meeting the criteria of 10 CFR 31.5(c)(13)(i) (2005) bears a permanent (e.g., embossed, etched, stamped or engraved) label affixed to the source housing, if separable, or the device, if the source housing is not separable, that includes the words "Caution – Radioactive Material", and, if practicable, the radiation symbol described in 32 Ill. Adm. Code 340.Illustration A.
- 2) Except as provided in this subsection, the interval between tests for proper operation of the on-off mechanism and indicator, if any, shall not exceed 6 months. The interval between tests for contamination of the device or for leakage of radioactive material from the device or for both shall not exceed 3 months for devices containing sources designed to emit alpha particles and 6 months for all other devices. In the event the applicant desires that the device be required to be tested at intervals longer than the above, the applicant shall include in the application sufficient information to demonstrate that such longer intervals are justified. The information shall include a description of the performance characteristics of the device or similar devices and of design features that have a significant bearing on the probability or consequences of contamination of the device or leakage of radioactive material from the device or failure of the on-off mechanism

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and indicator. In determining the acceptable interval for the test for leakage of radioactive material or contamination of the device, the Agency will consider information that includes, but is not limited to:

- A) Primary containment or source capsule;
  - B) Protection of primary containment;
  - C) Method of sealing containment;
  - D) Containment construction materials;
  - E) Form of contained radioactive material;
  - F) Maximum temperature withstood during prototype tests;
  - G) Maximum pressure withstood during prototype tests;
  - H) Maximum activity of contained radioactive material;
  - I) Radiotoxicity of contained radioactive material; and
  - J) Operating experience with identical devices or similarly designed and constructed devices.
- 3) In the event the applicant desires that the general licensee under Section 330.220(b) of this Part, or under equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of, or contamination by, radioactive material, service the device, test the on-off mechanism and indicator or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated annual doses associated with such activity or activities and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage and use of devices under the general license, is unlikely to cause that individual to

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receive an annual dose in excess of 10 percent of the limits specified in 32 Ill. Adm. Code 340.210(a).

- 4) A person licensed under subsection (d) of this Section to distribute devices to generally licensed persons shall provide the information in subsection (d)(4) of this Section to each person to whom a device is to be transferred for possession and use under the general license in Section 330.220(b) of this Part. This information shall be provided before a device is transferred. In the case of a transfer through an intermediate person, the information shall be provided to the intended user prior to transfer to the intermediate person. The required information is:
  - A) A copy of Section 330.220(b) of this Part;  
  
AGENCY NOTE: If certain provisions of Section 330.220(b) of this Part do not apply to a particular device, they may be omitted; e.g., tests for leakage or contamination or proper operation of an on-off mechanism and indicator.
  - B) A copy of 32 Ill. Adm. Code 310.40, 330.310 and 340.1210, 1220 and 1260;
  - C) A list of the services that may only be performed by a specific licensee;
  - D) Information on acceptable disposal options, including estimated costs of disposal; and
  - E) A statement of the Agency's policy to take escalated enforcement action for improper disposal.
- 5) A person licensed under this subsection (d) to distribute devices to generally licensed persons shall provide the information in this subsection (d)(5) to each person to whom a device is to be transferred for possession and use under a general license equivalent to Section 330.220(b) of this Part in the regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. This information shall be provided before a device is transferred. In the case of a transfer through an

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intermediate person, the information shall be provided to the intended user prior to transfer to the intermediate person. The required information is:

- A) A copy of 10 CFR 31.5, 31.2, 30.51, 20.2201 and 20.2202 (2005) or the equivalent regulations of an Agreement State or Licensing State. If a copy of the NRC regulations is provided to a prospective general licensee in lieu of the applicable Agreement State or Licensing State regulations, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State or Licensing State;

AGENCY NOTE: If certain provisions of the regulations do not apply to a particular device, they may be omitted; e.g., tests for leakage or contamination or proper operation of an on-off mechanism and indicator.

- B) A list of the services that may only be performed by a specific licensee;
- C) Information on acceptable disposal options, including estimated costs of disposal;
- D) A statement of the policies of the U.S. Nuclear Regulatory Commission and most Agreement States and Licensing States to take escalated enforcement action for improper disposal; and
- E) The name or title, address and phone number of the contact at the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State regulatory agency from whom additional information may be obtained.
- 6) A person licensed under this subsection (d) may propose, for approval by the Agency, an alternative method of informing customers.
- 7) Each device transferred after February 19, 2002, shall meet the labeling requirements of subsections (d)(1)(C), (D) and (E) of this Section.
- 8) If a license is to be terminated or if notification of bankruptcy is required by subsection (j) of this Section, a person licensed under this subsection

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(d) shall, upon request, provide to the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State the records of final disposition required by subsection (o)(8) of this Section.

- e) Special Requirements for the Manufacture, Assembly or Repair of Luminous Safety Devices for Use in Aircraft
- 1) An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under Section 330.220(c) of this Part will be approved if:
    - A) The applicant satisfies the general requirements specified in Section 330.250 of this Part; and
    - B) The applicant satisfies the requirements of 10 CFR 32.53-32.55 and 32.101, published January 1, 1993, exclusive of subsequent amendments or editions, or their equivalent.
  - 2) Each person licensed under this subsection (e) shall file an annual report with the Agency that shall state the total activity of tritium or promethium-147 transferred to persons generally licensed under Section 330.220(c) of this Part or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The report shall identify each general licensee by name and address, state the kinds and numbers of luminous devices transferred and specify the activity of tritium or promethium-147 in each kind of device. Each report shall cover the year ending June 30 and shall be filed within 30 days thereafter.
- f) Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Generally Licensed Under Section 330.220(e) of this Part. An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under Section 330.220(e) of this Part will be approved if:
- 1) The applicant satisfies the general requirements of Section 330.250 of this Part; and

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- 2) The applicant satisfies the requirements of 10 CFR 32.57 and 70.39 published January 1, 1993 and certifies that the applicant will satisfy, and subsequently satisfies, the requirements of 10 CFR 32.58, 32.59 and 32.102, published January 1, 1993, exclusive of subsequent amendments or editions.
  
- g) Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under General License. An application for a specific license to manufacture or distribute radioactive material for use under the general license of Section 330.220(f) of this Part, or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, will be approved if:
  - 1) The applicant satisfies the general requirements specified in Section 330.250 of this Part.
  - 2) The radioactive material is to be prepared for distribution in prepackaged units of:
    - A) Carbon-14 in units not exceeding 370 kBq (10  $\mu$ Ci) each.
    - B) Cobalt-57 in units not exceeding 370 kBq (10  $\mu$ Ci) each.
    - C) Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50  $\mu$ Ci) each.
    - D) Iodine-125 in units not exceeding 370 kBq (10  $\mu$ Ci) each.
    - E) Mock iodine-125 in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each.
    - F) Iodine-131 in units not exceeding 370 kBq (10  $\mu$ Ci) each.
    - G) Iron-59 in units not exceeding 740 kBq (20  $\mu$ Ci) each.
    - H) Selenium-75 in units not exceeding 370 kBq (10  $\mu$ Ci) each.
  - 3) Each prepackaged unit bears a durable, clearly visible label:

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- A) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kBq (10  $\mu$ Ci) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 1.85 MBq (50  $\mu$ Ci) of hydrogen-3 (tritium); 740 kBq (20  $\mu$ Ci) of iron-59; or mock iodine-125 in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each; and
  - B) Displaying the radiation caution symbol described in 32 Ill. Adm. Code 340.910(a) and the words, "CAUTION – RADIOACTIVE MATERIAL", and "Not for Internal or External Use in Humans or Animals".
- 4) One of the following statements, as appropriate, or a statement that contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
- A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.
  - B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.
- 5) The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains information about the precautions to be followed in handling and storing such radioactive material. In the case of the mock

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iodine-125 reference or calibration source, the manufacturer shall state in the directions that this item shall be disposed of in compliance with 32 Ill. Adm. Code 340.1010(a).

- h) Licensing the Manufacture and Distribution of Ice Detection Devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under Section 330.220(g) of this Part, will be approved if:
- 1) The applicant satisfies the general requirements of Section 330.250; and
  - 2) The criteria of 10 CFR 32.61, 32.62 and 32.103 published January 1, 1993, exclusive of subsequent amendments or editions, are met.
- i) Manufacture and Distribution of Radiopharmaceuticals Containing Radioactive Material for Medical Use Under Specific Licenses. An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to Section 330.260(a) for the uses described in 32 Ill. Adm. Code 335.3010, 335.4010 or 335.5010 will be approved if:
- 1) The applicant satisfies the general requirements specified in Section 330.250 of this Part;
  - 2) The applicant submits information showing that:
    - A) The radiopharmaceutical containing radioactive material will be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or
    - B) The manufacture and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;
  - 3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package and shielding provided by the packaging of the radioactive material which is

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appropriate for safe handling and storage of radiopharmaceuticals by specific licensees; and

- 4) The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, activity and activity assay date and the label affixed to each package, or the leaflet or brochure which accompanies each package, contains a statement that the radiopharmaceutical is licensed by the Agency for distribution to persons licensed pursuant to Section 330.260(a) for radioactive material specified in 32 Ill. Adm. Code 335.3010, 335.4010 or 335.5010, as appropriate, or under equivalent licenses of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The labels, leaflets or brochures required by this subsection (i) are in addition to the labeling required by the FDA and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

- j) Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceuticals Containing Radioactive Material

AGENCY NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material who desires to have such reagent kits approved by the Agency for use by persons licensed pursuant to Section 330.260(a) of this Part for generators or reagent kits specified in 32 Ill. Adm. Code 335.4010 may submit the pertinent information specified in this subsection (j).

An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed pursuant to Section 330.260(a) of this Part for the uses specified in 32 Ill. Adm. Code 335.4010 will be approved if:

- 1) The applicant satisfies the general requirements specified in Section 330.250 of this Part;
- 2) The applicant submits evidence that:

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- A) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or
  - B) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;
- 3) The applicant submits information on the radionuclide, chemical and physical form, packaging, including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
- 4) The label affixed to the generator or reagent kit contains information on the radionuclide, activity and activity assay date; and
- 5) The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:
- A) Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
  - B) A statement that the generator or reagent kit, as appropriate, is approved for use by persons licensed by the Agency pursuant to Section 330.260(a) of this Part and 32 Ill. Adm. Code 335.4010 or under equivalent licenses of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The labels, leaflets or brochures required by this subsection (j) are in addition to the labeling required by the FDA and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.
- k) Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to Section 330.260(a) of this Part for use as a calibration or

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reference source [in 32 Ill. Adm. Code 335.2040](#) or for the uses listed in 32 Ill. Adm. Code [335.2140](#), 335.6010, 335.7010 and 335.8010 will be approved if:

- 1) The applicant satisfies the general requirements in Section 330.250 of this Part;
- 2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:
  - A) The radioactive material contained, its chemical and physical form and activity;
  - B) Details of design and construction of the source or device;
  - C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;
  - D) For devices containing radioactive material, the radiation profile of a prototype device;
  - E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;
  - F) Procedures and standards for calibrating sources and devices;
  - G) Legend and methods for labeling sources and devices as to their radioactive content; and
  - H) Instructions for handling and storing sources or devices from the radiation safety standpoint. These instructions shall be included on a durable label attached to each source or device or attached to a permanent storage container for the source or device; provided, that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure that is referenced on the label;

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- 3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, activity and activity assay date, radiation symbol and/or "Caution Radioactive Material", serial number, model, manufacturer name or logo, and a statement that the source or device is licensed by the Agency for distribution to persons licensed pursuant to Section 330.260(a) or (b) of this Part and 32 Ill. Adm. Code [335.2040](#), [335.2140](#), [335.6010](#), [335.7010](#) and [335.8010](#) or under equivalent licenses of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, provided that the labeling for sources that do not require long-term storage may be on a leaflet or brochure that accompanies the source;
- 4) In the event the applicant desires that the source or device be required to be tested for leakage of, or contamination by, radioactive material at intervals longer than 6 months, the applicant shall include in the application sufficient information to demonstrate that the longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of radioactive contamination or leakage of radioactive material from the source; and
- 5) In determining the acceptable interval for tests of leakage of, or contamination by, radioactive material, the Agency will consider information that includes, but is not limited to:
  - A) Primary containment or source capsule;
  - B) Protection of primary containment;
  - C) Method of sealing containment;
  - D) Containment construction materials;
  - E) Form of contained radioactive material;
  - F) Maximum temperature withstood during prototype tests;
  - G) Maximum pressure withstood during prototype tests;

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- H) Maximum activity of contained radioactive material;
  - I) Radiotoxicity of contained radioactive material;
  - J) Operating experience with identical sources or devices or similarly designed and constructed sources or devices; and
  - K) Proposed use of source.
- l) Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications.  
An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to Section 330.210(d) of this Part or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:
- 1) The applicant satisfies the general requirements specified in Section 330.250 of this Part.
  - 2) The applicant submits sufficient information relating to the design (including blueprints), manufacture (construction materials and methods), prototype testing (description of testing that will be done and the acceptance criteria), quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to assure that possession, use or transfer of the depleted uranium in the product or device will not cause any individual to receive in any period of 1 year a radiation dose in excess of 10 percent of the limits specified in 32 Ill. Adm. Code 340.210(a).
  - 3) The applicant submits information assuring that the presence of depleted uranium for a mass-volume application in the product or device will provide a unique benefits to the public, i.e., a benefit that could not be achieved but for the use of depleted uranium. The applicant's methods for use and handling of the product or device will not result in uncontrolled disposal or dispersal of depleted uranium into the environment.
  - 4) The Agency will deny any application for a specific license under this subsection if the end uses of the industrial product or device cannot be reasonably foreseen.

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- 5) Each person licensed pursuant to this subsection (l) shall:
- A) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;
  - B) Label or mark each unit to:
    - i) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the activity of depleted uranium in each product or device; and
    - ii) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
  - C) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium";
  - D) Furnish:
    - i) A copy of the general license contained in Section 330.210(d) of this Part and a copy of the form "Registration Certificate – Use of Depleted Uranium Under General License", to each person to whom the licensee transfers depleted uranium in a product or device for use pursuant to the general license contained in Section 330.210(d) of this Part; or
    - ii) A copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Section 330.210(d) of this Part and a copy of the U.S. Nuclear Regulatory Commission's or Agreement

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State's certificate, or alternatively, furnish a copy of the general license contained in Section 330.210(d) of this Part and a copy of the form "Registration Certificate – Use of Depleted Uranium Under General License", to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in Section 330.210(d) of this Part;

- E) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in Section 330.210(d) of this Part. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the activity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under Section 330.210(d) ~~of this Part~~ during the reporting period, the report shall so indicate;
- F) File a report that identifies each general licensee by name and address, an individual by name and/or position who constitutes a point of contact between the Agency and the general licensee, the type and model number of the device transferred and the activity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person. The licensee shall report:
- i) To the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25;

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- ii) To the responsible state agency all transfers of devices manufactured and distributed pursuant to this subsection (l) for use under a general license in that state's regulations equivalent to Section 330.210(d) of this Part;
  - iii) To the U.S. Nuclear Regulatory Commission if no transfers have been made by the licensees during the reporting period;
  - iv) To the responsible Agreement State agency upon the request of that agency if no transfers have been made to general licensees within a particular Agreement State during the reporting period; and
- G) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in Section 330.210(d) of this Part or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of 2 years and shall show the date of each transfer, the activity of depleted uranium in each product or device transferred and compliance with the report requirements of this Section.
- m) Special Requirements for License to Manufacture, Import or Initially Distribute Sealed Sources or Devices Containing Sealed Sources to Persons Having a Specific License.
- 1) An application for license to manufacture, import or initially distribute sealed sources or devices containing sealed sources for initial transfer to persons having a specific license to receive such sealed sources or devices will be approved subject to the following conditions:
    - A) The applicant satisfies the general requirements specified in Section 330.250 of this Part;
    - B) The licensee subject to this subsection (m) shall not transfer a sealed source or device containing a sealed source to any person

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except in accordance with the requirements of Section 330.400 of this Part.

- 2) Any manufacturer, importer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the Agency for evaluation of radiation safety information about its product and for filing an evaluation sheet in the U.S. Nuclear Regulatory Commission "Registry of Radioactive Sealed Sources and Devices".
  - A) A request for evaluation of a sealed source or device containing a sealed source shall be submitted in duplicate and shall include information required by subsection (m)(2)(B) or (C) of this Section, as applicable, demonstrating that the radiation safety properties of the source or device will not endanger public health and safety or property.
  - B) A request for evaluation of a sealed source shall include the following radiation safety information:
    - i) Proposed uses for the sealed source;
    - ii) Chemical and physical form and maximum quantity of radioactive material in the sealed source;
    - iii) Details of design of the sealed source, including blueprints, engineering drawings or annotated drawings;
    - iv) Details of construction of the sealed source, including a description of materials used in construction;
    - v) Radiation profile of a prototype sealed source;
    - vi) Procedures for and results of prototype testing;
    - vii) Details of quality control procedures to be followed in manufacture;

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- viii) A description or facsimile of labeling to be affixed to the sealed source;
  - ix) Leak testing procedures; and
  - x) Any additional information, including experimental studies and tests, required by the Agency to facilitate a determination of the safety of the sealed source, as required by Section 330.250 of this Part.
- C) A request for evaluation of a device containing a sealed source shall include the following radiation safety information:
- i) Proposed uses for the device;
  - ii) Manufacturer, model number, chemical and physical form and maximum quantity of radioactivity in the sealed source or sources to be used in the device;
  - iii) Details of design of the sealed source, including blueprints, engineering drawings or annotated drawings;
  - iv) Details of construction of the sealed source, including a description of materials used in construction;
  - v) Radiation profile of a prototype device;
  - vi) Procedures for and results of prototype testing;
  - vii) Details of quality control procedures to be followed in manufacture;
  - viii) A description or facsimile of labeling to be affixed to the device;
  - ix) Leak testing procedures;
  - x) A description of potential hazards in installation, service, maintenance, handling, use and operation of the device;

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- xi) Information about installation, service and maintenance procedures;
  - xii) Handling, operating and safety instructions; and
  - xiii) Any additional information, including experimental studies and tests, required by the Agency to facilitate a determination of the safety of the device as required by Section 330.250 of this Part.
- D) When evaluating a sealed source or device, the Agency will apply the radiation safety criteria described in 10 CFR 32.210(d), published January 1, 1993, exclusive of subsequent amendments or editions.
- E) The person submitting a request for evaluation of a product shall manufacture and distribute the product in accordance with:
- i) The statements and representations, including the quality control program, described in the request; and
  - ii) The provisions of the evaluation sheet prepared by the Agency and submitted to the U.S. Department of Health and Human Services for filing in the "Radioactive Material Reference Manual", or to the U.S. Nuclear Regulatory Commission for filing in the "Registry of Radioactive Sealed Sources and Devices".
- n) Manufacture and Distribution of Radioactive Material for Medical Use Under General License. A specific license authorizing the distribution of radioactive materials for diagnostic medical use by a physician under a general license shall be issued only if the applicant for the specific license satisfies the requirements of Section 330.250 of this Part and:
- 1) The applicant submits evidence that the radioactive material is to be manufactured, labeled and packaged in accordance with an approval by the commissioner of Food and Drugs, U.S. Food and Drug Administration,

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or in accordance with an approval for a biologic product issued by the Secretary, U.S. Department of Health and Human Services; and

- 2) One of the following statements, as appropriate, or a statement which contains the information called for in one of the following statements, appears on the label affixed to the container or appears in the leaflet or brochure that accompanies the package:
  - A) This radiopharmaceutical may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or its equivalent of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.
  - B) This radiopharmaceutical may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or its equivalent of a Licensing State.
- o) **Material Transfer Reports and Records**

Each person licensed under subsection (d) of this Section to distribute devices to generally licensed persons shall comply with the requirements of subsection (n) of this Section.

  - 1) The person shall report:
    - A) To the Agency and to the responsible regulatory agency all transfers of devices to persons for use under the general license in Section 330.220(b) of this Part or the equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State;
    - B) To the Agency and to the responsible regulatory agency all receipts of devices from persons generally licensed under Section 330.220(b) of this Part or the equivalent regulations of the U.S.

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Nuclear Regulatory Commission, an Agreement State or a Licensing State;

- C) To the Agency if no transfers were made to or from general licensees during the reporting period; and
  - D) To the responsible regulatory agency upon the request of the agency if no transfers during the reporting period were made to or from general licensees in the agency's area of jurisdiction.
- 2) The report shall be on NRC Form 653, "Transfers of Industrial Devices Report" or in a clear and legible format containing all of the information required by the form. The report shall cover each calendar quarter, shall be filed within 30 days after the end of the calendar quarter and shall clearly indicate the period covered.
- 3) For a transfer to a general licensee, the report shall provide:
- A) The identity of the general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee shall be submitted, along with information on the actual location of use;
  - B) The name, title, and phone number of the individual identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;
  - C) The date of transfer;
  - D) The type, model and serial number of the device transferred; and
  - E) The radionuclide and activity contained in the device.
- 4) If one or more intermediate persons will temporarily possess a device at the intended place of use before its possession by the user, the report shall include the same information for both the intended user and each intermediate person and shall clearly designate all intermediate persons.

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- 5) For a device received from a general licensee, the report shall provide the name and address of the general licensee and the type, model and serial number of the device and the date of receipt. For a device not initially transferred by the reporting person, the report shall provide the name of the manufacturer or distributor.
- 6) If the person makes a change to a device possessed by a general licensee that necessitates a change in the label, the report shall identify the general licensee, the device and the changes to information on the device label.
- 7) The report shall clearly identify the person licensed under subsection (d) of this Section that is furnishing the report and shall include the person's specific license number.
- 8) The person shall maintain all information concerning transfers and receipts of devices that supports the reports required by this subsection (o). These records shall be maintained for 5 years following the recorded event.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:                      Proposed Action:  
     140.3                                              Amendment  
     140.403                                          New Section
- 4) Statutory Authority: Sections 5-5 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/5-5 and 5/12-13] and Public Act 95-16
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking provides that medical providers who provide mental health and medical services through "telepsychiatry" and "telemedicine" be reimbursed. The rulemaking establishes guidelines for telehealth services, which are those provided via a telecommunication system. The new Section provides definitions; participation requirements, including those for telepsychiatry and telemedicine services; reimbursement policy, and recordkeeping and maintenance procedures. These amendments also add telehealth services to those covered by the Department's medical assistance 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? Yes

<u>Sections Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.454	Amendment	32 Ill. Reg. 10782; July 18, 2008
140.455	Amendment	32 Ill. Reg. 10782; July 18, 2008
140.413	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.435	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.436	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.14	Amendment	32 Ill. Reg. 14003; August 29, 2008
140.16	Amendment	32 Ill. Reg. 14003; August 29, 2008

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140.44	Amendment	32 Ill. Reg. 14003; August 29, 2008
140.414	Amendment	32 Ill. Reg. 18121; December 1, 2008
140.422	Repeal	32 Ill. Reg. 18121; December 1, 2008
140.427	Repeal	32 Ill. Reg. 18121; December 1, 2008
140.443	Amendment	32 Ill. Reg. 18121; December 1, 2008
140.414	Repeal	33 Ill. Reg. 19; January 1, 2009
140.422	Repeal	33 Ill. Reg. 19; January 1, 2009
140.427	Repeal	33 Ill. Reg. 19; January 1, 2009
140.443	Repeal	33 Ill. Reg. 19; January 1, 2009

- 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 parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Tamara Tanzillo Hoffman  
 Chief of Staff  
 Illinois Department of Healthcare and Family Services  
 201 South Grand Avenue E., 3<sup>rd</sup> Floor  
 Springfield IL 62763-0002

217/557-7157

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

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

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Health care providers
  - B) Reporting, bookkeeping or other procedures required for compliance: Medical recordkeeping exclusive to telehealth services.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: January 2009

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)

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- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
<a href="#">140.403</a>	<a href="#">Telehealth Services</a>
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
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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: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7

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Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill.

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Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days;

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emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective

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December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252,

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effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective

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December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150

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days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 140.3 Covered Services Under Medical Assistance Programs**

- a) As described in this Section, medical services shall be covered for:
  - 1) recipients of financial assistance under the AABD (Aid to the Aged, Blind or Disabled), TANF (Temporary Assistance to Needy Families), or Refugee/Entrant/Repatriate programs;
  - 2) recipients of medical assistance only under the AABD program (AABD-MANG);

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- 3) recipients of medical assistance only under the TANF program (TANF-MANG);
  - 4) individuals under age 18 not eligible for TANF (see Section 140.7), pregnant women who would be eligible if the child were born and pregnant women and children under age eight who do not qualify as mandatory categorically needy (see Section 140.9);
  - 5) disabled persons under age 21 who may qualify for Medicaid or in-home care under the Illinois Home and Community-Based Services Waiver for Medically Fragile Technology Dependent Children;
  - 6) recipients eligible under the State Transitional Assistance Program who are determined by the Department to be disabled; and
  - 7) Individuals 19 years of age or older eligible under the KidCare Parent Coverage Waiver as described at 89 Ill. Adm. Code 120.32 except for:
    - A) Services provided only through a waiver approved under section 1915(c) of the Social Security Act; and
    - B) Termination of pregnancy.
- b) The following medical services shall be covered for recipients under age 21 who are included under subsection (a):
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;

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- 6) Pharmacy services;
- 7) Home health agency visits;
- 8) Laboratory and x-ray services;
- 9) Group care services;
- 10) Family planning services and supplies;
- 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
- 12) Transportation to secure medical services;
- 13) EPSDT services pursuant to Section 140.485;
- 14) Dental services;
- 15) Chiropractic services;
- 16) Podiatric services;
- 17) Optical services and supplies;
- 18) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;
- 19) Hospice services;
- 20) Nursing care pursuant to Section 140.472; ~~and~~
- 21) Nursing care for the purpose of transitioning children from a hospital to home placement or other appropriate setting pursuant to 89 Ill. Adm. Code 146, Subpart D; ~~and-~~
- 22) [Telehealth services pursuant to Section 140.403.](#)

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- c) The following medical services shall be covered for recipients age 21 or over who are included under subsection (a):
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;
  - 6) Pharmacy services;
  - 7) Home health agency visits;
  - 8) Laboratory and x-ray services;
  - 9) Group care services;
  - 10) Family planning services and supplies;
  - 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
  - 12) Transportation to secure medical services;
  - 13) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;
  - 14) Hospice services;
  - 15) Dental services;
  - 16) Chiropractic services;

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- 17) Podiatric services; ~~and~~
- 18) Optical services and supplies; ~~and-~~
- 19) Telehealth services pursuant to Section 140.403.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.403 Telehealth Servicesa) Definitions

- 1) "Asynchronous Store and Forward Technology" means the transmission of a patient's medical information from an originating site to the provider at the distant site. The provider at the distant site can review the medical case without the patient being present. An asynchronous telecommunication system in single media format does not include telephone calls, images transmitted via facsimile machines and text messages without visualization of the patient (electronic mail). Photographs visualized by a telecommunication system must be specific to the patient's medical condition and adequate for furnishing or confirming a diagnosis and/or treatment plan. Dermatological photographs (for example, a photograph of a skin lesion) may be considered to meet the requirement of a single media format under this provision.
- 2) "Distant Site" means the location at which the provider rendering the service is located.
- 3) "Facility Fee" means the reimbursement made to the following originating sites for the telehealth service: physician's office, local health departments, community mental health centers, outpatient hospitals and substance abuse treatment centers licensed by the Department of Human Services-Division of Alcoholism and Substance Abuse (DASA).
- 4) "Interactive Telecommunication System" means multimedia communications equipment that includes, at a minimum, audio and video

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equipment permitting two-way, real-time interactive communication between the patient and the distant site provider. Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunication system.

- 5) "Originating Site" means the location at which the participant receiving the service is located.
- 6) "Telecommunication System" means an asynchronous store and forward technology and/or an interactive telecommunication system that is used to transmit data between the originating and distant sites.
- 7) "Telehealth" means services provided via a telecommunication system.
- 8) "Telemedicine" means the use of a telecommunication system to provide medical services for the purpose of evaluation and treatment when the patient is at one medical provider location and the rendering provider is at another location.
- 9) "Telepsychiatry" means the use of a telecommunication system to provide psychiatric services for the purpose of evaluation and treatment when the patient is at one medical provider location and the rendering provider is at another location.

b) Requirements for Telehealth Services

- 1) Telemedicine
  - A) A physician or other licensed health care professional must be present at all times with the patient at the originating site.
  - B) The distant site provider must be a physician or advanced practice nurse who is licensed by the State of Illinois or by the state where the patient is located.
  - C) The originating and distant site provider must not be terminated, suspended or barred from the Department's medical programs.

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- D) Medical data may be exchanged through a telecommunication system.
  - E) The interactive telecommunication system must, at a minimum, have the capability of allowing the consulting physician to examine the patient sufficiently to allow proper diagnosis of the involved body system. The system must also be capable of transmitting clearly audible heart tones and lung sounds, as well as clear video images of the patient and any diagnostic tools, such as radiographs.
- 2) Telepsychiatry
- A) A physician, licensed health care professional or other licensed clinician, as defined in 59 Ill. Adm. Code 132.25, must be present at all times with the patient at the originating site.
  - B) The distant site provider must be a physician licensed by the State of Illinois or by the state where the patient is located and must have completed an accredited general psychiatry residency program. When treating patients age 15 and younger, the physician must have also completed an accredited child and adolescent psychiatry residency program.
  - C) The originating and distant site provider must not be terminated, suspended or barred from the Department's medical programs.
  - D) The distant site provider must personally render the telepsychiatry service.
  - E) Telepsychiatry services must be rendered using an interactive telecommunication system.
  - F) Group psychotherapy is not a covered telepsychiatry service.
- c) Reimbursement for Telehealth Services
- 1) Originating Site Reimbursement

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- A) A facility fee shall be paid to providers as defined in subsection (a)(3) of this Section.
  - B) Local Education Agencies may submit telehealth services as a certified expenditure.
  - C) Providers who receive reimbursement for a patient's room and board are not eligible for reimbursement as an originating site.
  - D) Clinics reimbursed under the prospective payment system shall be eligible for a medical encounter as set forth in subsection (c)(3) of this Section.
- 2) Reimbursement for Rendering Provider at the Distant Site
- A) Participating providers shall be reimbursed for the appropriate AMA Current Procedural Terminology (CPT) code for the telehealth service rendered.
  - B) Nonparticipating providers may be reimbursed by the originating site provider, but will not be eligible for reimbursement from the Department.
- 3) Clinic Reimbursement
- A) An encounter clinic serving as the originating site shall be reimbursed for its medical encounter. The clinic is responsible for reimbursement to the distant site provider.
  - B) An encounter clinic serving as the distant site shall be reimbursed as follows:
    - i) If the originating site is another encounter clinic, the distant site encounter clinic shall receive no reimbursement from the Department. The originating site encounter clinic is responsible for reimbursement to the distant site encounter clinic; and

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ii) If the originating site is not an encounter clinic, the distant site encounter clinic shall be reimbursed for its medical encounter. The originating site provider will receive a facility fee as defined in subsection (a)(3) of this Section.

d) Record Requirements for Telehealth Services

- 1) Medical records documenting the telehealth services provided must be maintained by the originating and distant sites and shall include, but not be limited to, the following:
  - A) The records required in Section 140.28;
  - B) The name and license number of the physician, licensed health care professional or other licensed clinician present with the patient at the originating site;
  - C) The name and license number of the provider at the distant site and, if the service involves telepsychiatry, documentation that the physician has completed an approved general psychiatry residency program or an approved child and adolescent residency program for patients age 15 and younger;
  - D) The location of the originating and distant sites;
  - E) The date and the beginning and ending times of the telehealth service; and
  - F) The medical necessity for the telehealth service.
- 2) When the originating site is a federally qualified health center, rural health center or encounter clinic, records from the distant site must also be maintained.
- 3) Appropriate steps must be taken by the originating and distant site staff to assure patient confidentiality, based on technical advances in compliance with all federal and state privacy and confidentiality laws.

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- 4) The type of interactive telecommunication system utilized at the originating and distant sites shall be documented.
- 5) The billing records related to the use of the telecommunication system shall be maintained as provided in Section 140.28.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Grain Code
- 2) Code Citation: 8 Ill. Adm. Code 281
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
281.05	New Section
281.07	New Section
281.10	Amend
281.20	Amend
281.30	Amend
281.40	Amend
281.50	Amend
281.60	Amend
281.65	New Section
281.70	Amend
281.80	Amend
281.90	Amend
281.100	New Section
- 4) Statutory Authority: Grain Code [240 ILCS 40]
- 5) Effective Date of Amendments: January 16, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: August 22, 2008; 32 Ill. Reg. 13624
- 10) Has JCAR issued a Statement of Objection to these rulemakings? No
- 11) Differences between proposal and final version: In Section 7, the Department added definitions of "Licensee" and "Warehouse" and in Section 65(b) added "2008" after "7 CFR 735". Section 60(f) was deleted. Nonsubstantive changes recommended by JCAR were made.

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- 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 Amendments: The rules are being updated pursuant to the statutory changes made to the Grain Code. Statutory amendments include the use of electronic warehouse receipts and other electronic documents to be used in the industry.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Stuart Selinger  
Illinois Department of Agriculture  
P. O. Box 19281, State Fairgrounds  
Springfield, Illinois 62794-9281

Telephone: 217/785-8308  
Facsimile: 217/524-7801

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

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TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER k: GRAINPART 281  
GRAIN CODE

## Section

<a href="#">281.5</a>	<a href="#">Purpose</a>
<a href="#">281.7</a>	<a href="#">Definitions</a>
281.10	Right of Examination, <del>and</del> Working Conditions <a href="#">and Examination Levels</a>
281.20	Licensing: Application, Fees and Financial Ratios
281.30	Required Insurance
281.40	Required Records
281.50	Price Later Contracts
281.60	Warehouse Receipts
<a href="#">281.65</a>	<a href="#">Electronic Document Providers</a>
281.70	Types of Storage
281.80	Failure; Claims; Liquidation
281.90	Miscellaneous
<a href="#">281.100</a>	<a href="#">Severability</a>

AUTHORITY: Implementing and authorized by the Grain Code [240 ILCS 40].

SOURCE: Adopted at 20 Ill. Reg. 5499, effective April 1, 1996; expedited correction at 20 Ill. Reg. 9585, effective April 1, 1996; amended at 21 Ill. Reg. 5526, effective April 22, 1997; amended at 33 Ill. Reg. 1647, effective January 16, 2009.

**Section 281.5 Purpose**

This Part provides regulations for the implementation and operation of the Grain Code. The Code and this Part shall be liberally construed and liberally administered in favor of claimants as defined in Section 1-10 of the Code. It is the explicit finding of the legislature that the grain industry in Illinois comprises a significant and vital part of the State's economy and that the purpose of the Code is to provide for a single system of governmental regulation of the Illinois grain industry. [240 ILCS 40/1-5]

(Source: Added at 33 Ill. Reg. 1647, effective January 16, 2009)

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**Section 281.7 Definitions**

"Central Filing System" or "CFS" means an electronic system operated and maintained by a provider where information relating to warehouse receipts and other electronic documents is recorded and maintained in a confidential and secure fashion independent of any outside influence or bias in action or appearance, and that is authorized by the Director.

"Code" means the Grain Code [240 ILCS 40].

"Department" means the Illinois Department of Agriculture.

"Director" means the Illinois Director of Agriculture, or the Director's designee.

"Electronic Document" means a document that is generated, sent, received, or stored by electrical, digital, magnetic, optical electromagnetic, or any other similar means, including, but not limited to, electronic data interchange, electronic mail, telegram, telex, or telecopy.

"Electronic Warehouse Receipt" or "EWR" means a warehouse receipt that is issued or transmitted in the form of an electronic document.

"FSA" means Farm Service Agency under the United States Department of Agriculture.

"Holder", with respect to an electronic warehouse receipt or any other electronic document, means a person in possession in fact or by operation of law.

"Licensee" means a grain dealer or warehouseman who is licensed by the Department and a federal warehouseman that is a participant in the Illinois Grain Insurance Fund.

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

"Provider" means a disinterested third party that maintains one or more confidential and secure electronic systems independent of any outside interference or bias in action or appearance and that is authorized by the Director to be a provider.

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"Provider Agreement" means the document and any amendment or addenda to an agreement executed by the provider and FSA or USDA pursuant to 7 CFR 735 that sets forth the provider's responsibilities concerning the provider's operation or maintenance of a CFS.

"USDA" means United States Department of Agriculture.

"User" means an entity that uses a provider's CFS.

"Warehouse" means a building, structure, or enclosure in which grain is stored for the public for compensation, whether grain of different owners is commingled or whether identity of different lots of grain is preserved.

"Warehouse Receipt" means a receipt for the storage of grain issued by a warehouseman. [240 ILCS 40/1-10]

(Source: Added at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.10 Right of Examination, ~~and~~ Working Conditions and Examination Levels****a) Right of Examination and Working Conditions:**

**1a)** The licensee shall permit the Department to examine all warehouse facilities, records or inventory without prior notice. The licensee shall provide reasonable access to records at the location where records are maintained, or, if the records are located outside the State of Illinois, the Department may require that the records be brought to a specified location in Illinois for review by the Department. The licensee~~and~~ shall provide reasonable assistance as requested to perform the examination. The licensee shall reasonably remove risks or hazards that may be encountered during an examination. The licensee shall provide the necessary assistance to any authorized representative of the Department for the safe measurement and sampling of the grain inventory.

**2b)** The licensee shall provide an acceptable work place at the location where the master books and records are maintained in order to allow~~for~~ any authorized representative of the Department to perform an examination.

**b) Examination Levels**

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Pursuant to Section 1-15(2) of the Code, the Department shall examine and inspect each licensee at least once each calendar year. The Department shall perform one of three types of examination of licensees: basic examination; intermediate examination; or advanced examination. In ascertaining the level of risk present in a licensee's merchandising and trade practices, as part of the Department's determination as to which level of examination should be appropriate to a particular licensee, the Department may take into account such factors as the level of sophistication and experience of the licensee's merchandising personnel; the overall financial resources of the licensee, as an indication of ability to absorb and assume risk; the historical experience of the licensee with regard to the particular merchandising and trade practices being used; and the extent of the use of certain practices as a proportion of all merchandising and trading practices of the licensee.

- 1) The basic examination shall be performed when the licensee's merchandising and trade practices involve minimal market risk, including cash back-to-back contracts, traditional hedges with the Chicago Board of Trade and price later contracts.
  - 2) The intermediate examination shall include all of those matters done as part of the basic examination and shall be performed when there is an increased amount of risk, including situations in which the licensee uses guaranteed minimum price contracts, purchases options or writes options.
  - 3) The advanced examination shall include all those matters done as part of the intermediate examination and shall be performed when the licensee's merchandising and grain practices involve the most risk, including when the licensee has discretionary trading authority from producers, uses premium offer type contracts, or has contracts with producers that cover multiple crop years. The advanced examination shall include grain market risk evaluation, appropriate levels of risk for the licensee and adequacy of internal controls.
- c) Examinations may include, but are not limited to, the following:
- 1) Verification of grain quality and quantity;

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- 2) Reconciliation of records of grain transactions, including, but not limited to, random selection of a sample of customer accounts and mailing of confirmations to verify accuracy of those records;
- 3) Computation of current ratios as provided in the Code;
- 4) Checking of posting procedures for accuracy;
- 5) Grain market risk evaluation and appropriate levels of risk for the licensee;
- 6) Examination of the most recent monthly financial statements of the licensee;
- 7) Review and evaluation of the internal recordkeeping systems and controls of the licensee;
- 8) Evaluation of the long/short market risk report for accuracy, complete accounting and full disclosure;
- 9) Random spot checks and examination of specific contract information for each type of contracting method used by the licensee; and
- 10) Market risk information reported by the licensee, at the commencement of the examination, on a form prescribed by the Department. The prescribed form shall include, but is not limited to:
  - A) Names of key personnel and/or business associates related to grain merchandising transactions;
  - B) Marketing programs offered; and
  - C) Types of contracts.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.20 Licensing: Application, Fees and Financial Ratios**

- a) Form and Content of Application

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All applications for a license shall be filed on forms provided by the Department. The application shall be signed by the applicant and shall include the following information, without limitation:

- 1) Whether the applicant is a corporation, cooperative, partnership, individual or other business entity;
- 2) The general manager's name and home address;
- 3) The name and home address of the persons responsible for grain operations at each location;
- 4) The names and home addresses of management, principal officers and members of the Board of Directors of the licensee;
- 5) The current business address of the licensee;
- 6) If the applicant has been engaged in the business as a grain dealer:
  - A) for one year or more, the aggregate dollar amount paid to producers for grain during the applicant's last completed fiscal year; or
  - B) for less than one year, or has not engaged in the business of buying grain from producers, the estimated aggregate dollar amount to be paid by the applicant to producers for grain purchased from producers during the applicant's first fiscal year;
- 7) A summary of company-owned grain inventory, grain assets and payables, related party receivables and payables, net position and grain profits; and
- 8) The criminal history of management and principal officers of the applicant or licensee.
- 2) ~~The major commodity, in terms of bushels, which the applicant proposes to buy;~~
- 3) ~~The general manager's name and the names of those persons responsible for grain operations at each location; and~~

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4) ~~The current business address of the licensee.~~

b) Grain Dealer Certificate Fee

The fee for a certificate of a grain ~~dealer's dealer~~ license shall be \$25.~~00~~.

c) Criteria for Licenses and Certificates

1) A grain ~~dealer's dealer~~ license or a location certificate for a grain ~~dealer's dealers~~ license is required for each individual address at which any of the following applies:

A) Grain is received from producers and weighed across scales ~~that~~which are under the licensee's control.

B) Contracts are negotiated and executed for the purchase of grain.

C) Settlement or payment is made for grain purchased from Illinois producers.

D) Records relating to any of these transactions are maintained.

2) A grain warehouse license is required for each individual address at which ~~either~~any of the following applies:

A) Grain is received from depositors for storage and weighed across a scale.

B) Warehouse receipts are issued or grain storage records are maintained.

3) A truck owned or leased and used for the purpose of receiving or transporting grain by a grain dealer is required to carry a certificate showing that a grain ~~dealer's dealer~~ license is held by the owner or lessee. The fee for a certificate carried in a truck or tractor trailer unit used in connection with the licensee's grain dealer business shall be \$25. A truck ~~which is~~ hired by the grain dealer to haul grain is exempt from the certificate requirement.

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## 4) Multiple Warehouse Locations

A common license may be issued for the operation of two or more warehouse facilities if the warehouseman operates each warehouse in conjunction with the other, all functioning under the same name, located in the same geographical area, operating out of a principal office, keeping the same set of records and having the same management.

## d) Filing for Extensions

- 1) The application for extension and a preliminary financial statement ~~that consists of a compiled balance sheet~~ must be received by the Department prior to the close of business on the date of expiration of the current license ~~license's expiration~~.
- 2) The preliminary financial statement must:
  - A) consist of a balance sheet and be compiled by an independent certified public accountant licensed under Illinois law or an entity permitted to engage in the practice of public accounting under Section 14(b)(3) of the Illinois Public Accounting Act [225 ILCS 450]; or
  - B) in the case of a Class II Warehouseman or incidental grain dealer, be reviewed by an independent accountant that meets the requirements of Section 5-25(b) of the Code.
- 3) If the licensee is also a warehouseman, the applicant must also submit a summary of the applicant's grain inventory and storage obligations.
- 4) The Department must be satisfied that the applicant meets all renewal requirements (see Section 5-25 of the Code) ~~The applicant shall submit an audited financial statement~~ no later than the date the extension expires.
- 5) The applicant shall be required to provide an explanation as to why the extension is needed.
- 6) An extension will be granted by the Department for a period of time not to exceed 30 days if the Department determines that the applicant appears to

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have complied with the financial requirements of Section 5-25(b) of the Code.

- e) Class II/Incidental Financial Statement Form  
The Department shall request that an applicant for an incidental grain dealer or Class II warehouse license submit a financial statement ~~which may be~~ on a form prescribed by the Department or a compiled financial statement consisting of an income statement and balance sheet completed by an independent accountant.
- f) Reduction of Filing Period for License Renewal  
When the Department determines that an applicant has failed to meet the financial requirements of Section 5-25(b) of the ~~Grain~~-Code, the Department shall reduce the filing period for an application for renewal of a license to no less than 60 days after the licensee's fiscal year end ~~upon giving required notice~~. The Department must give written notice of the reduced filing period to the licensee at least 60 days before the earlier deadline imposed by the Department to file the application for renewal of a license.
- g) Liquid assets shall include accrued storage, drying and price later service charges.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.30 Required Insurance**

- a) Before a license shall be issued to the applicant or the licensed storage capacity is increased, the applicant/licensee shall file with the Department a certificate of insurance on a form prescribed by the Department, which shall indicate that the licensee has adequate property insurance covering grain in its possession or custody and adequate liability, property, theft, hazard and workers' compensation insurance and grain is insured for its full market value and that the licensee is the named beneficiary on the policy.
- b) The legal name and address of the licensee and location of each warehouse in the insurance policy shall correspond with the information given in the application.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.40 Required Records**

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## a) Daily Position Record

- 1) A daily position record ~~means a written or electronic document that is~~ ~~shall~~ ~~be~~ maintained on a daily basis for each commodity. Postings for each day shall reflect actual changes in inventory for that business day. The daily position record shall provide for a separate accounting for the following:
  - A) Summary stock record showing total bushel amount of grain received, grain loaded out of the warehouse, adjustments, total grain inventory in the warehouse, redeposited grain and total of the grain inventory in the warehouse plus redeposited grain.
  - B) Negotiable warehouse receipts obligations, total bushels ~~covered~~ ~~by~~ receipts issued and total bushels ~~covered by~~ receipts cancelled.
  - C) Non-negotiable warehouse receipts obligations, total bushels ~~covered by~~ receipts issued and total bushels ~~covered by~~ receipts cancelled.
  - D) Non-receipted storage obligations including total bushel increases and total bushel decreases.
  - E) Non-receipted company owned grain.
  - F) Inventory bushel adjustments to the daily position record as set forth in subsection (a)(2) ~~below~~.
- 2) Warehousemen may make adjustments to their inventory as long as documentation is available to substantiate the following types of adjustments:
  - A) Adjustments to shrink calculations;
  - B) Adjustments for error correction;
  - C) Adjustments based upon ~~certified public accountant~~ ~~Certified Public Accountant~~ inventories;

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- D) Adjustments based upon weighed inventories.
- 3) Licensees must maintain a master daily position record combining all locations, inventory and storage obligations in the case of multiple locations.
- 4) Actual grain inventories must at all times be in balance with the summary stock quantity as indicated in the daily position record.
- b) Long/Short Position Record  
Each grain dealer shall maintain a master long/short risk position record, as either a written or electronic document, that combines ~~combining~~ all marketing activity of all locations each business day. The risk position record shall at a minimum contain the net position; grain owned; grain sold and shipped on price later contracts ~~that~~which have not been priced; open cash purchase contracts, including purchase contracts issued and purchase contracts cancelled; all futures purchased or sold; grain in transit not sold; grain owned and stored in other grain warehouses; grain purchased and received on price later contracts ~~that~~which have not been priced; open cash sales contracts, including sales contracts issued and sales contracts cancelled; and any options purchased or sold. The position record shall also contain a comments section. The grain dealer shall note in the comments section any actions taken to regain a balanced position as required in Section 10-10 of the Code. ~~The~~Such comments shall, at a minimum, indicate bushel amounts, name of buyer/seller/broker and approximate times of transactions.
- c) Scale Tickets
- 1) Scale tickets shall be pre-numbered by an independent printer, or, in the case of computer generated scale tickets, numbered consecutively by the computer ~~recordkeeping~~record-keeping system.
- 2) Scale tickets shall be issued in numerical sequence ~~and a copy shall be filed numerically~~. All scale tickets must be accounted for numerically either by paper or electronic documentation. A separate series of scale tickets shall be used for each location that has scales under the licensee's control over which grain is received.
- d) Cross-~~reference~~Reference

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All accounts and records relating to grain operations are to be properly cross-referenced. An adequate system of cross-reference shall exist beginning at the time of delivery, clearly indicating the current status of the grain and changes in that status, and indicating the final disposition of the grain.

- e) **Settlement and/or Receiving Sheets**  
Settlement and/or receiving sheets shall either be pre-numbered by an independent printer or, in the case of computer generated sheets, numbered consecutively by the computer ~~recordkeeping~~~~record-keeping~~ system. The licensee shall use settlement and/or receiving sheets in numerical sequence and account for all settlement and/or receiving sheets either by paper or electronic documentation. Settlement and/or receiving sheets shall contain evidence of the method of settlement, such as check number, warehouse receipt number, or other evidence of settlement. Settlement and/or receiving sheets, both open and closed, shall be filed in a manner to be readily available for examination purposes, such as alphabetical or numerical. If~~Where~~ price later contracts are used, the settlement/receiving sheets shall clearly indicate the price later contract numbers against which grain is to be applied.
- f) **Safeguarding and Retention of Records**  
The licensee shall provide a secure place at each licensed location and at the principal office for storage of all records pertaining to the operation of the licensee. ~~The~~~~Such~~ records shall be kept current and made available for inspection by Department personnel at the principal office of the licensee and at each licensed location. ~~The~~~~Such~~ records shall be retained by the licensee for a period of not less than two years from the closing date of any transaction.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.50 Price Later Contracts**

- a) **Prescribed Form**  
A price later contract executed between a licensee and a producer shall be on a prescribed form that~~which~~ has been approved by the Department. The prescribed form shall include, but need not be limited to, the following information:
- 1) The legal name and address of the licensee;
  - 2) The legal name of the seller;

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- 3) The bushel amount of grain to be covered by the contract;
- 4) The grade and commodity of grain to be covered by the contract;
- 5) The dates of delivery of the grain to be covered by the contract;
- 6) The method of pricing;
- 7) A section to indicate service charges, advances or other terms;
- 8) The following statements:
  - A) Title to the grain covered by this contract passes to buyer at the time of delivery.
  - B) Buyer is required to maintain grain assets and price later, storage and drying service charges equal to 90% of its price later obligations.
  - C) Price later grain is not stored grain for the seller. In the event of a failure, the contract is the basis for a grain dealer claim. The maximum coverage afforded by the Illinois Grain Insurance Fund is 85% of valid grain dealer claim amounts up to a maximum of \$250,000 per claimant. The maximum payment per claimant covers all contracts that in any way can be related or tied to a person or entity, whether in full or in part.
  - D) This contract shall cease to be the basis of a valid claim, and seller shall not be entitled to any recovery:
    - i) When both the date of completion of delivery and the date of pricing of the grain are in excess of 160 days before the date of failure;
    - ii) If the later of the date of execution of the contract or the date of delivery of the grain covered by the price later contract occurred more than 365 days before the date of failure (The phrase "the later of the date" means the date

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closest to the date of failure, and the phrase "date of delivery" means the date of the last delivery of grain to be applied to the quantity requirement of the price later contract.);

iii) If the claim is based upon or acquired by fraudulent or illegal acts of the seller.

- E) The execution of subsequent price later contracts for the grain previously covered by a price later contract shall not extend coverage of a claim beyond the original 365 days.
- F) The contract must be signed by both parties within 30 days after the last date of delivery or the grain will be priced at the market price of the grain at the close of the next business day after the 29<sup>th</sup> day.
- G) Within 5 business days after the seller selects a price for all or any part of the grain represented by the price later contract, the buyer shall settle and mail to the seller full settlement for the priced grain;
- ~~A) That title to the grain covered by this contract passes to buyer upon delivery;~~
- ~~B) Buyer is required to maintain grain assets and price later, storage, and drying service charges equal to 90% of its price later obligations;~~
- ~~C) Price later grain is not stored for the seller. This contract is regarded as a grain dealer claim. The maximum coverage afforded by the Illinois Grain Insurance Fund is 85% of the valid grain dealer claim amount up to a maximum of \$100,000 per claimant. A valid grain dealer claim includes all groups of contracts that in any way can be related or tied to a person or entity whether in full or in part;~~
- ~~D) This contract shall cease to be the basis of a valid claim against the Illinois Grain Insurance Fund;~~

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- ~~i) Upon the expiration of 160 days after the grain sold under this contract is priced; or~~
    - ~~ii) Upon the expiration of 270 days after the latter of the execution of this contract or the date of delivery of the grain sold under this contract;~~
  - ~~E) The execution of subsequent price later contracts by the producer and the licensee for grain previously covered by a price later contract shall not extend the coverage of a claim beyond the original 270 days;~~
  - ~~F) Contract must be signed by both parties within 30 days after the last date of delivery or the grain will be priced on the next available business day at the closing price on that day;~~
- 9) A section indicating the signature and date of signature for both the seller and buyer's representative;
- 10) The reverse of the contract shall contain a schedule of settlements and basis activity for the grain to be covered by the contract.
- b) Printing
  - 1) A price later contract shall be written and shall be printed by a person authorized by the Department to print ~~thosesuch~~ contracts ~~by the Department~~. The Department shall authorize persons to print price later contracts if they are printed in accordance with the Grain Code and ~~the rules of~~ this Part and if they have registered in accordance with Section 10-15 of the Code. ~~posted the required bond. The printer shall provide a surety bond in the sum of \$5,000 payable to the Illinois Department of Agriculture, Director of the Department of Agriculture as Trustee.~~
  - A) All price later contracts shall be:
    - i1) Printed only for licensees.
    - ii2) Numbered consecutively either at the time of printing or

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through the control of a computer generated system.

~~B3)~~ A complete record of contracts printed shall be retained by the printer for 5 years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the contracts.

2) Authorized printers shall notify the Department of the number of price later contracts printed, when they were printed, for whom they were printed and the consecutive numbers printed on the contracts.

c) Separate Series

Each location at which price later contracts are issued shall have its own identifiable series of price later contracts.

d) Requirements for Use of Price Later Contracts

1) Only one commodity per contract.

2) The bushel quantity of a price later contract ~~shall~~ may not be increased.

3) Price later contracts are to be executed ~~in triplicate~~ with the original copy maintained by the dealer and a copy to the seller.

4) The dealer shall maintain the updated and signed contracts in numerical order.

5) No storage charges shall be made with respect to any commodity purchased by price later. A service charge may be assessed.

6) A rollover shall be documented with the initials of both parties and dated by both parties.

7) Grain assets included in the assets required to meet 90% of outstanding price later obligations do not have to be commodity specific.

e) Pre-delivery Price Later

When a price later contract is used as a pre-delivery contract, the original bushel amount ~~shall~~ may be adjusted down to reflect the actual amount of grain delivered against the contract.

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(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.60 Warehouse Receipts**

## a) Warehouse Receipt Forms

Warehouse receipts shall be either a written or an electronic document and must comply~~Every warehouse receipt, in addition to complying~~ with the requirements of Article 7 of the Uniform Commercial Code, except to the extent inconsistent with the Code, in which instance the provisions of the Code prevail. A licensee may issue warehouse receipts by use of a written warehouse receipt system, an electronic warehouse receipt system, or both.~~shall have the following:~~

1) Paper warehouse receipts shall include the following information:

A~~1~~) Class of warehouse (I or II).

B~~2~~) The legal name of the entity operating the warehouse.

C~~3~~) If a license covers multiple locations, ~~the receipt must indicate~~ at which location delivery was made and date of delivery.

D~~4~~) The kind and the grade factors of the grain as prescribed by the Official Grain Standards (7 CFR 810, January 2007~~June 1993~~).

E~~5~~) The number of bushels stored.

F~~6~~) The words "Negotiable" or "Non-negotiable" according to the nature of the receipt, conspicuously printed or stamped on the receipt~~thereon~~.

2) Electronic Warehouse Receipts (EWR)

A) An EWR must be in the format prescribed in the applicable provider agreement.

B) An EWR issued in accordance with the Code shall not be denied legal effect, validity, or enforceability on the grounds that the

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information is generated, sent, received or stored by electronic or similar means.

- C) A warehouseman shall not be required to issue a warehouse receipt in electronic form.
- D) If a warehouseman licensed under the Code elects to issue EWRs, and if the depositor or other holder prefers a paper receipt, the warehouseman shall cancel the EWR and reissue a paper receipt.
- E) A warehouseman intending to issue or issuing EWRs under the Code shall:
- i) issue an EWR through only one authorized provider annually;
  - ii) inform the Department of the identity of its provider 60 calendar days in advance of first issuing an EWR through that provider. The Department may waive or modify this 60-day requirement;
  - iii) before issuing an EWR, request and receive from FSA or the Department a range of consecutive warehouse receipt numbers that the warehouseman will use consecutively for issuing their EWRs;
  - iv) cancel an EWR only when it is the holder of the EWR;
  - v) receive written authorization from FSA at least 30 calendar days before changing providers. Upon authorization, a warehouseman may request its current provider to transfer, and that provider shall transfer, its EWR data from the current provider's CFS to the CFS of the authorized provider it selects;
  - vi) notify all holders of EWRs in the CFS at least 30 calendar days before changing providers, unless otherwise allowed or required by FSA; and

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vii) For purposes of subsection (a)(2)(E)(iv), the warehouseman is considered a "holder" solely for the purpose of canceling an electronic warehouse receipt on the electronic warehouse receipt system and the warehouseman shall in no way be considered the owner of the grain that was covered by the cancelled electronic warehouse receipt, absent evidence of sale of that grain to the warehouseman.

F) EWR Rights and Obligations

An EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt and possesses the following attributes:

i) The holder of an EWR will be entitled to the same rights and privileges as the holders of a paper warehouse receipt.

ii) Only the current holder of the EWR may transfer the EWR to a new holder.

iii) The identity of the holder must be kept confidential by the provider.

iv) Only one person may be designated as the holder of an EWR at any one time.

v) A warehouse operator may not issue an EWR on a specific identity-preserved or commingled lot of grain or any portion thereof while another valid warehouse receipt representing the same specific identity-preserved or commingled lot of grain remains not cancelled. No two warehouse receipts issued by a warehouseman may have the same warehouse receipt number or represent the same lot of grain.

vi) Holders and warehousemen may authorize any other user of their provider to act on their behalf with respect to their activities with this provider. This authorization must be in writing and acknowledged and retained by the warehouseman and provider.

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## b) Printing

- 1) Warehouse receipts, other than EWRs, shall be printed by a person authorized to print thosesueh receipts by the Department. The Department shall authorize persons to print warehouse receipts if they are printed in accordance with the Grain Code and the rules of this Part and if they have registered in accordance with Section 10-25 of the Code, posted the required bond. The printer shall provide a surety bond in the sum of \$5,000 payable to the Illinois Department of Agriculture, Director of the Department of Agriculture as Trustee. All warehouse receipts shall be:
  - A) Printed only for licensees.
  - B) Numbered consecutively either at the time of printing or through the control of a computer generated system, and the numbers shall not be duplicated.
  - C) A complete record of receipts printed shall be retained by the printer for 5 years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the receipts.
- 2) A duplicate copy of any invoice rendered for printing warehouse receipts shall be forwarded by the printer to the Department at the same time as billing is made to the warehouseman. The invoice shall show for whom printed, the consecutive numbers that were printed on the receipts, type of receipt (whether negotiable or non-negotiable), and number of receipts printed.

c) Paper Warehouse Receipts as Collateral

- 1) Warehousemen issuing negotiable warehouse receipts for collateral purposes shall properly endorse thosesueh receipts on the reverse to the secured party.
- 2) The warehouseman's obligation represented by an outstanding warehouse receipt endorsed for collateral purposes shall not be cancelled until the warehouseman has the outstanding receipt back in its possession and it has been properly cancelled. The warehouseman may cancel the

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outstanding obligation represented by a warehouse receipt in lieu of having the actual receipt in ~~its~~ possession, provided that the secured party has presented the warehouseman with a written confirmation of ~~their~~ release of ~~the~~ warehouse receipt. The confirmation shall at a minimum contain the date of release, the receipt numbers and the signature of the secured party warehouse receipt holder. The confirmation ~~shall~~ ~~may~~ be provided by written or electronic documentation, by letter or facsimile transmission.

d) Electronic Warehouse Receipts as Collateral

- 1) Warehousemen issuing a negotiable EWR for collateral purposes shall properly endorse the receipt to the secured party.
- 2) The warehousemen's obligation represented by an outstanding EWR shall be cancelled upon transfer by the holder.

ed) Issuance and Cancellation of Paper Warehouse Receipts

- 1) A negotiable or non-negotiable warehouse receipt shall be issued by the warehouseman to the depositor, on demand by the depositor, for grain delivered into storage. ~~When~~~~In the case where~~ no warehouse receipt was originally issued to the depositor, except for grain bank accounts, the warehouseman shall issue a warehouse receipt on ~~the~~ stored grain prior to the next harvest season. In the case of a Class II warehouseman, only non-negotiable warehouse receipts shall be issued.
- 2) On the date that a printed warehouse receipt is cancelled, ~~the~~ receipt shall be plainly marked across its face with the word "cancelled". The cancelled receipt shall also be marked with the date and the name of the person cancelling the ~~receipt~~, the means by which the receipt was cancelled (i.e., check number, monetary wire transfer or delivery from storage) and shall thereafter be void. The daily position record shall accurately reflect the date of cancellation of all warehouse receipts.

fe) Numbering of Receipts

If warehouse receipts are to be issued from multiple locations or for specific commodities, the warehousemen shall maintain separate numerical series of warehouse receipts for each location or commodity. The receipts must have

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an 8a-six digit number with the first (leftmost) digit being a numeric prefix to indicate the specific location or commodity.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.65 Electronic Document Providers**

- a) Electronic document provider systems must allow for electronic data interface with Department computer systems to electronically transfer warehouse receipts and/or other electronic document information for examination purposes.
- b) Providers who operate and maintain a CFS in reference to electronic documents, including EWRs, must meet all USDA requirements pursuant to 7 CFR 735 (2008) and must maintain USDA-approved provider status to be eligible as a provider for licensees. In order to be authorized by the Director, providers must also:
  - 1) register with the Department and pay an annual registration fee of \$100;
  - 2) provide all documentation requested by the Department to confirm that the provider is a USDA-approved provider in good standing;
  - 3) maintain and retain a complete record of EWRs for 6 years, showing for whom issued, the number issued and the consecutive numbers that were issued on the EWRs;
  - 4) immediately notify the Department of any instance in which the provider is required to notify the USDA or a user of any breach of security or confidentiality concerning data, loss of operations, cancellation of insurance or other compromise, disruption or infringement of its operations;
  - 5) maintain adequate levels of insurance and name the Director as an additional insured;
  - 6) be authorized to transact business in the State of Illinois;
  - 7) consent to jurisdiction in the State of Illinois and venue in Sangamon County;

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- 8) maintain records, make reports and provide to the Department the documentation, records and reports requested by the Director, free of charge to the Department; and
- 9) comply in all respects with Illinois law, including but not limited to the Code and this Part.
- c) A provider shall submit to the Department copies of its current schedule of charges and rates for services before they are to become effective. A provider shall also submit to the Department 60 calendar days notice of its intent to change rates.
- d) A provider shall submit to the Department advance notice of any changes to or new agreements with users.
- e) Any person authorized by the Director to issue EWRs or other electronic documents shall maintain records and make reports requested by the Director.
- f) A provider agrees that its ability to issue EWRs is contingent on approval by FSA, and suspension or termination by FSA of the provider is an automatic suspension or termination of the authority granted by the Department for the provider to operate in the State of Illinois. A provider shall be required to immediately notify the Department of any suspension or termination of approval as a provider by FSA.
- g) After providing notice and opportunity for hearing in accordance with 8 Ill. Adm. Code 1, the Director may suspend authorization for a provider for a material violation of, or failure to comply with, any provision of the Code (including any regulations promulgated under the Code); failure to perform authorized services in an acceptable manner; failure to maintain security of the CFS; or commission of fraud against the Department, FSA or any depositor.

(Source: Added at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.70 Types of Storage**

- a) Application to Amend Licensed Storage Capacity (Permanent, Temporary and Emergency)

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- 1) Prior to increasing any type of storage capacity, or decreasing permanent storage capacity, the licensee shall submit an application to amend the licensed storage capacity and provide the following information:
  - A) The licensee's legal name and business address;
  - B) Description of each storage structure that is being added to, or removed from, the licensed storage capacity;
  - C) The storage capacity of each warehouse structure proposed to be added or deleted;
  - D) A certificate indicating that insurance coverage has been obtained on all space added to the licensed storage capacity; and
  - E) A filing fee of \$100.
- 2) It is not necessary to submit an application or filing fee to decrease approved temporary or emergency storage requests that expire within a specified period.

ba) Permanent Storage

~~1)~~The Department shall issue a license for permanent storage capacity or approve the application to amend the licensed permanent storage capacity of a licensee ~~if provided that~~ all of the licensing requirements to obtain, maintain or amend a license as set forth in the Code and ~~the rules of~~ this Part have been met, and ~~if provided~~ the warehouse meets the following requirements:

- ~~1A)~~ The grain storage structures are owned or leased by the applicant/warehouseman.
- ~~2B)~~ Grain is protected from weather elements (i.e., a floor of concrete, asphalt, wood or metal or a material having similar structural qualities).
- ~~3C)~~ Each grain storage structure is covered by a permanent, waterproof roof.
- ~~4D)~~ The grain storage structure has rigid sidewalls (e.g., concrete, wood or metal or a material having similar structural qualities).

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5E) All grain storage structures that are connected by legs, pipes, belts or other fixed devices ~~that~~which transport grain are included in the licensed space.

~~2)~~ ~~Prior to increasing or decreasing the licensed storage capacity, the licensee shall submit an application to amend the licensed storage capacity and provide the following:~~

~~A) The legal name and address of the entity;~~

~~B) Description of each storage structure that is being added to or removed from the licensed storage capacity;~~

~~C) The storage capacity of each warehouse structure proposed to be added or deleted;~~

~~D) A certificate indicating that insurance coverage has been obtained on all space added to the licensed storage capacity; and~~

~~E) An amendment fee of \$50.~~

cb) Temporary Storage

1) Extensions of temporary storage approval may be granted by the Department provided:

A) The warehouseman demonstrates that there is good cause for an extension.

B) The request for extension is received at least ~~2 weeks~~one week in advance of the expiration date of the temporary storage approval.

2) Extensions for the use of temporary storage shall be granted in increments not to exceed 90 days.

de) Emergency Storage

1) The Department shall approve the use of emergency storage, provided the warehouseman demonstrates that an emergency exists.

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- 2) Emergency storage is considered to be any storage ~~that~~<sup>which</sup> does not meet the criteria of permanent or temporary storage (i.e., uncovered ground piles, structures without rigid sidewalls, etc.).
- 3) Emergency storage approval shall not exceed ~~3~~<sup>three</sup> months. The length of approval shall be dependent on the ability of the warehouseman to maintain the quantity and quality of the grain in storage, considering weather conditions, exposure to weather elements, security, etc.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.80 Failure; Claims; Liquidation**

- a) In the event of a failure, notices shall ~~contain the following information and be posted:~~ ~~1) A notice shall be posted~~ at all facilities of the licensee by the Department ~~and at:~~ ~~2) The notice shall be posted on~~ all office locations of the licensee. Notices shall contain the following information:
  - ~~13)~~ The ~~notice shall indicate the~~ name of the licensee, the grain warehouse license number and the grain dealer license number.
  - ~~24)~~ The ~~notice shall indicate the~~ effective date the license was ~~either~~ terminated, suspended, revoked ~~or~~; surrendered, or renewal was denied.
  - ~~35)~~ ~~The~~ ~~notice shall indicate that the~~ licensee has been ordered to cease and desist doing business as a licensed grain ~~warehouseman~~<sup>warehouse</sup> and grain dealer in the State of Illinois.
  - ~~46)~~ ~~Persons~~ ~~The notice shall indicate that persons~~ may contact the Illinois Department of Agriculture, Bureau of Warehouses, P.O. Box 19281, Springfield, IL 62794-9281, (800)654-0082.
- b) Liquidating Licensee
  - 1) Procedure for Determining the Value of Grain on the Date of Failure ~~determining the value of grain on the date of failure~~. The Department shall use an average of the cash bid prices, as solicited from grain dealers located within the market area of the failed licensee,

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and the actual cash bid that would have been offered by the failed licensee on the date of closing, for all grain stored or unpriced as indicated by the evidence of storage or sale of grain, less transportation, handling costs, and discounts. The schedule of discounts (which include, but are not limited to, moisture, foreign material, test weight, heating, musty, sour, or commercially objectionable foreign odor, heat damage, weevil damage, splits and damaged kernels) of the failed licensee shall be used by the Department to determine discounts to be assessed against the valid claimant. For all grain delivered, sold, and priced prior to the date of failure, the price per bushel shall be ~~that which has been~~ agreed upon by the failed licensee and the claimant.

- 2) Procedure for the Sale of Grain from a Failed Warehouse and/or Grain Dealers~~sale of grain from a failed warehouse and/or grain dealer~~. The Department shall solicit at least ~~3~~<sup>three</sup> competitive bids from within the market area of the failed licensee. The Department shall solicit quotations for market discounts (i.e., moisture, foreign material, test weights, heating, musty, sour or commercially objectionable foreign odors, heat damage, weevil damage, splits and ~~damaged~~<sup>damage to the</sup> kernels) from each bidder who submits a bid. The Department shall consider the following factors in determining who shall purchase the grain:
    - A) The bid price for the grain.
    - B) Transportation costs to be deducted from the bid price for the grain.
    - C) Market discounts that will be applied against the bid price for the grain.
    - D) The amount of the grain that the bidder can take delivery of during the contracted time period for transporting the grain.
- c) Claims Procedure
- 1) Claimants shall file their claims at the location indicated in the public notice or mail claims to the Department of Agriculture, Bureau of Warehouses, P.O. Box 19281, Springfield, IL 62794-9281.

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- 2) Claim forms will be made available at the locations of the failed licensee.
- 3) All scale tickets, settlement sheets, warehouse receipts and contracts must be submitted with the claim.
- 4) All original warehouse receipts shall be submitted to the Department prior to receiving payment of a claim.
- 5) All claims must be signed by the claimant whose name appears on the claim.
- 6) All claims must have a tax identification number affixed for claims verification purposes.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.90 Miscellaneous**

- a) Business Hours  
Temporary interruptions of the posted business days and hours shall be posted in a conspicuous place at the place of business. The Department may grant seasonal business days and hours to those businesses ~~that~~which operate only during specific periods. Any deviations on business hours pursuant to Section 5-25(a)(2) of the ~~Grain~~-Code shall be approved by the Department.
- b) Grain Bank
  - 1) Grain deposited for grain bank purposes shall be accounted for on a separate record, ~~with such record~~ containing the same informational requirements as a non-negotiable warehouse receipt, or on a non-negotiable warehouse receipt listing each lot of grain deposited and withdrawn, showing a net balance.
  - 2) When a non-negotiable warehouse receipt is issued for grain in a grain bank, the reverse side of the original warehouse receipt shall be used to record withdrawals and additional deposits and the warehouse receipt shall be retained by the warehouseman.

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- 3) No deposit shall be recorded ~~that which~~ would increase the balance of the grain in the grain bank to an amount ~~that which~~ would exceed the original net bushels on the face of the non-negotiable warehouse receipt.
- c) **Posting Bin Chart and Diagram**  
The warehouseman shall post in a conspicuous place in the office of each warehouse a bin chart and diagram, as supplied by the Department, showing the location, bin number and capacity of all bins and sections of the warehouse.
- d) **Transfer and Redeposit**  
A warehouseman forwarding stored grain to another warehouseman for redeposit shall obtain a non-negotiable warehouse receipt as evidence of the forwarded grain.
- e) **Grain Dealer Examination Fee**  
The first examination performed each calendar year shall be billed at a rate of ~~.0003-00015~~ x the total dollar amount paid to producers the last fiscal year with a minimum fee of ~~\$150\$75~~ and a maximum of ~~\$400\$200~~. When more than one location is included in the exam, a fee of \$50 is required for each additional certificate of a license ~~shall be billed \$25~~. For each subsequent examination in a calendar year, the grain dealer shall pay a ~~\$50\$25~~ fee for each license examined.
- f) **Collateral and Guarantees**  
Pursuant to Section 15-30(d) of the ~~Grain~~-Code, the Department may require that an applicant or licensee provide the Department with personal, corporate, or other related person guarantees. The Department may require that a guarantee be executed by any related person to an applicant or licensee. All guarantees shall be executed for a minimum of \$500,000. Guarantees shall be executed for a maximum amount not to exceed the dollar value of annual grain purchases or the dollar value of the highest bushel storage obligation during the past year.
- g) **Grain Seller Assessment**  
The Department shall give written notice to all licensees of when an assessment is to begin and end. The assessment established in Section 5-30 of the Code shall be collected by licensees at the time of settlement, without regard to the date the grain was sold to the licensee. The collection and remittance of assessments from first sellers of grain are the sole responsibility of the licensee to whom the grain is sold and shall be reported by the licensee on a form prescribed by the Department.

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The prescribed form shall include, but need not be limited to, the following information:

- 1) Legal name and address of licensee;
- 2) Grain dealer license number;
- 3) Grain dealer certificate license number;
- 4) County;
- 5) Business telephone;
- 6) Period of report;
- 7) Commodity;
- 8) Number of bushels assessed;
- 9) Net market value of assessed bushels;
- 10) Rate of assessment;
- 11) Total assessment; and
- 12) Certification of licensee.

h) Lender Assessment

The Department shall give written notice to all licensees of when an assessment is to begin and end. The assessment established in Section 5-30 of the Code shall be based on the bushels represented by a warehouse receipt issued by a licensee from an Illinois location held as security for a loan, including, without limitation, the advancing of money or other value to, or for the benefit of, a licensee upon the licensee's issuance or negotiation of a grain warehouse receipt and pursuant to, or in connection with, an agreement between the licensee and a counter-party for the repurchase of the grain by the licensee or designee of the licensee. It is the licensee's responsibility to inform its lenders and/or other persons of the onset of an assessment for which they might be liable. Each quarterly assessment shall be paid and reported by the lender or its designee on a form prescribed by the

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Department. The prescribed form shall include, but need not be limited to, the following information:

- 1) Legal name and address of licensee;
- 2) Lender name and address;
- 3) Grain warehouse license number;
- 4) County;
- 5) Business telephone;
- 6) Period of report;
- 7) Warehouse receipt number;
- 8) Commodity;
- 9) Number of bushels assessed;
- 10) Applicable commodity price;
- 11) Number of days tendered as collateral;
- 12) Rate of assessment;
- 13) Lender assessment multiplier;
- 14) Total assessment; and
- 15) Certification of licensee.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)

**Section 281.100 Severability**

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If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, that adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

(Source: Added at 33 Ill. Reg. 1647, effective January 16, 2009)

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
120.381	Amendment
120.510	Amendment
- 4) Statutory Authority: Section 5-21(11) of the Illinois Public Aid Code [305 ILCS 5/5-2(11)] and 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: February 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 32 Ill. Reg. 1530; February 8, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: In sections 120.381(k) and 120.381(k)(l), language was deleted and replaced with the following language:  

"k) For disabled persons who have lost eligibility under Section 120.510 and who are only requesting services other than those described in 89 Ill. Adm. Code 120.61(a), the following additional exemptions shall apply:

  - 1) Retirement accounts that a person with a disability cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220; and
  - 2) Up to \$25,000 if the person owned assets of equal value when his or her eligibility under Section 120.510 ended."

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

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

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

<u>Sections:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
120.32	Amendment	31 Ill. Reg. 15424; November 26, 2007
120.33	New Section	31 Ill. Reg. 15424; November 26, 2007
120.530	Amendment	32 Ill. Reg. 6328; April 18, 2008

15) Summary and Purpose of Amendments: PA 95-546 amended the Public Aid Code to expand eligibility for Health Benefits for Workers with Disabilities (HBWD). The law increases the income threshold to 350 percent of the federal poverty level guidelines. It also increases allowable non-exempt assets to \$25,000 and exempts retirement accounts and medical savings accounts from consideration in eligibility determinations. Pre the statute, up to \$25,000 of the non-exempt assets and retirement and medical savings accounts will continue to be exempt for individuals who lose HBWD eligibility but continue to be eligible as a person with a disability. These changes are subject to federal approval. The law was effective in August. Further, the proposed amendment updates the income and asset requirements in the rule and also established payable premium amounts for persons in the higher income range established under the law. The premiums are reflected in the revised premium chart.

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

Tamara Tanzillo Hoffman  
Chief of Staff  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/557-7157

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 120

## MEDICAL ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

## Section

120.1 Incorporation by Reference

## SUBPART B: ASSISTANCE STANDARDS

## Section

120.10 Eligibility For Medical Assistance

120.11 MANG(P) Eligibility

120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women

120.14 Presumptive Eligibility for Children

120.20 MANG(AABD) Income Standard

120.30 MANG(C) Income Standard

120.31 MANG(P) Income Standard

120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard

120.40 Exceptions To Use Of MANG Income Standard

120.50 AMI Income Standard (Repealed)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

## Section

120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children

120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –

MANG(AABD) and All Other Licensed Medical Facilities

120.62 Department of Mental Health and Developmental Disabilities (DMHDD)

Approved Home and Community Based Residential Settings Under 89 Ill. Adm.

Code 140.643

120.63 Department of Mental Health and Developmental Disabilities (DMHDD)

Approved Home and Community Based Residential Settings

120.64 MANG(P) Cases

120.65 Department of Mental Health and Developmental Disabilities (DMHDD)

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## Licensed Community – Integrated Living Arrangements

## SUBPART D: MEDICARE PREMIUMS

## Section

120.70	Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72	Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73	Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
120.74	Qualified Medicare Beneficiary (QMB) Income Standard
120.75	Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76	Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## Section

120.80	Recipient Restriction Program
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## SUBPART F: MIGRANT MEDICAL PROGRAM

## Section

120.90	Migrant Medical Program (Repealed)
120.91	Income Standards (Repealed)

## SUBPART G: AID TO THE MEDICALLY INDIGENT

## Section

120.200	Elimination Of Aid To The Medically Indigent
120.208	Client Cooperation (Repealed)
120.210	Citizenship (Repealed)
120.211	Residence (Repealed)
120.212	Age (Repealed)
120.215	Relationship (Repealed)
120.216	Living Arrangement (Repealed)
120.217	Supplemental Payments (Repealed)
120.218	Institutional Status (Repealed)
120.224	Foster Care Program (Repealed)
120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)

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120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status

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120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses
120.371	Income From Work/Study/Training Programs
120.372	Earned Income From Self-Employment
120.373	Earned Income From Roomer and Boarder
120.375	Earned Income In-Kind
120.376	Payments from the Illinois Department of Children and Family Services
120.379	Provisions for the Prevention of Spousal Impoverishment
120.380	Assets
120.381	Exempt Assets

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- 120.382 Asset Disregard  
120.383 Deferral of Consideration of Assets  
120.384 Spenddown of Assets (AABD MANG)  
120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)  
120.386 Property Transfers Occurring On or Before August 10, 1993  
120.387 Property Transfers Occurring On or After August 11, 1993  
120.390 Persons Who May Be Included In the Assistance Unit  
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later  
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy  
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project  
120.395 Payment Levels for MANG (Repealed)  
120.399 Redetermination of Eligibility  
120.400 Twelve Month Eligibility for Persons under Age 19

## SUBPART I: SPECIAL PROGRAMS

## Section

- 120.500 Health Benefits for Persons with Breast or Cervical Cancer  
120.510 Health Benefits for Workers with Disabilities  
120.520 SeniorCare (Repealed)  
120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21  
120.540 Illinois Healthy Women Program  
120.550 Asylum Applicants and Torture Victims
- 120.TABLE A Value of a Life Estate and Remainder Interest  
120.TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI 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; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory

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amendment at 2 Ill. Reg. 46, p. 56, 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; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory 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; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended 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; preemptory 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; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective 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; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding

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Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838,

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effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409,

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effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; amended at 33 Ill. Reg. 1681, effective February 1, 2009.

## SUBPART H: MEDICAL ASSISTANCE – NO GRANT

**Section 120.381 Exempt Assets**

AABD MANG-assets exempt from consideration for AABD MANG shall be as follows:

- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
  - 1) Homestead property

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- 2) Personal Property
  - A) Personal effects and household goods of reasonable value (reasonable value means the client's equity value in such property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.
  - B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described in Section 120.386).
- 3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property; provided the property produces a net annual income of at least six percent of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the activity produces income that is less than six percent of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to six percent of the equity value (for example, a medical prognosis that the individual is expected to respond to treatment or that drought resistant corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to determine if the six percent rule is met and then the amounts of the individual's equity in all of those properties are totaled to see if the total equity is \$6,000 or less.
- 4) Automobile
  - A) Exclude one automobile, regardless of value, used by the client, spouse; or other dependent if:
    - i) it is necessary for employment;
    - ii) it is necessary for the medical treatment of a specific or regular medical problem;

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- iii) it is modified for operation by, or transportation of, a handicapped person;
  - iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or
  - v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described in Section 120.386).
- B) If not excluded in subsection (a)(4)(A) of this Section, exclude one automobile to the extent the fair market value does not exceed \$4500. Apply the excess fair market value toward the asset disregard (see 89 Ill. Adm. Code 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).
- C) For all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see 89 Ill. Adm. Code 113.142).
- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If the total face value exceeds \$1,500, the cash surrender value must be counted as a resource.
- b) Burial spaces and funds are exempt as follows:
- 1) Burial spaces ~~that which~~ are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and ~~stepchildren~~~~step-children~~, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.
  - 2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement

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[thatwhich](#) is available for burial expenses.

- 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occurred the earlier of the date of first SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5) (1992)).
  - 4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$4,000 each, including prepaid funeral and burial plans. This limit will be increased annually by three percent.
- c) Assets necessary for fulfillment of an approved plan for achieving [self-supportself support](#).
  - d) Trust funds are exempt as follows:
    - 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
    - 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].
  - e) Assets excluded by express provision of 20 CFR 416.1236 (1997).
  - f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
  - g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a [one-timeone-time](#) lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under Public Law 101-201.
  - h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
  - i) Disaster relief payments provided by federal, State or local government or a

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disaster assistance organization.

- j) The amount of earned income tax credit ~~that~~<sup>which</sup> the client receives as advance payment or as a refund of federal income tax.
- k) For disabled persons who have lost eligibility under Section 120.510 and who are only requesting services other than those described in 89 Ill. Adm. Code 120.61(a), the following additional exemptions shall apply:
  - 1) Retirement accounts that a person with a disability cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220; and
  - 2) Up to \$25,000 if the person owned assets of equal value when his or her eligibility under Section 120.510 ended.

(Source: Amended at 33 Ill. Reg. 1681, effective February 1, 2009)

## SUBPART I: SPECIAL PROGRAMS

**Section 120.510 Health Benefits for Workers with Disabilities**

- a) To be eligible for medical assistance under Health Benefits for Workers with Disabilities, an individual must meet all of the following eligibility requirements:
  - 1) Cooperate in establishing eligibility as described in Section 120.308.
  - 2) Meet citizenship/immigration status as described in Section 120.310.
  - 3) Meet residency requirements as described in Section 120.311.
  - 4) Be disabled as described in Section 120.314.
  - 5) Assign rights to medical support and collection of payment as described in Section 120.319.
  - 6) Furnish a Social Security number(s) as described in Section 120.327.
  - 7) Be 16 through 64 years of age.

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- 8) Have countable monthly income at or below ~~350~~200 percent of the Federal Poverty Level.
  - 9) Have non-exempt assets at or below \$~~25,000~~10,000.
  - 10) Be employed pursuant to subsection (l)(1) of this Section or qualify for an exception as described in subsection (l)(2) of this Section.
  - 11) Pay a premium pursuant to subsections (m) and (n) of this Section.
- b) An individual shall not be determined eligible if the individual is otherwise eligible for medical assistance without a spenddown.
  - c) An individual who is otherwise eligible for medical assistance with a spenddown ~~and~~ who meets the requirements of this Section, shall have the option of enrolling in medical assistance with a spenddown or Health Benefits for Workers with Disabilities.
  - d) An individual's eligibility shall be terminated if the individual no longer meets the requirements of this Section.
  - e) Certain assets shall be exempt from consideration in determining eligibility in accordance with Section 120.381. In addition, retirement accounts that the individual cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220 shall be exempt.
  - f) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (g), (h) and (i) of this Section.
    - 1) Income of the individual.
    - 2) Income of the spouse.
    - 3) Unearned income of a dependent child under the age of 18 years who is included in the income standard (see Section 120.20) because it is to the advantage of the individual.

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- g) Monthly unearned income shall be counted as described in Sections 120.330 through 120.345 and Sections 120.350, 120.355, 120.371 and 120.376.
- h) Monthly earned income shall be considered as described in Sections 120.360, 120.361, 120.371, 120.372, 120.373 and 120.375.
- i) The Department shall exempt earned income as provided in Section 120.362(a) and (b)(1). In addition, work related expenses that are allowed as deductions for AABD MANG as described in Section 120.370 shall be deducted.
- j) Application Process
  - 1) Individuals can apply by completing an application provided by the Department and submitting it to an address specified by the Department.
  - 2) The application must meet all requirements found at 89 Ill. Adm. Code 110.10(a), (c), (e) and (i).
- k) Authorization of Medical Assistance Eligibility
  - 1) Medical assistance coverage will not be provided for any month for which eligibility is established unless a premium is paid in accordance with subsections (m) and (n) of this Section.
  - 2) Subject to subsections (k)(2)(A), (B) and (C) of this Section, the applicant may choose to receive medical assistance for months prior to the initial month of prospective eligibility as determined in accordance with subsections (m) and (n) of this Section.
    - A) Eligibility will be effective no earlier than the third month before the month of application if the applicant received covered medical services during that period and would have been eligible if he or she had applied for Health Benefits for Workers with Disabilities.
    - B) Months of backdated coverage selected must be consecutive and must be continuous with the initial month of prospective eligibility.
    - C) Monthly premiums must be paid for all the months of coverage.

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- l) Individuals Considered Employed
  - 1) For purposes of this program, an individual shall be considered employed if the individual provides verification that current payment under the Federal Insurance Contributions Act (FICA) or Illinois Municipal Retirement Fund (IMRF) has been made on behalf of the individual.
  - 2) Under the following circumstances, an individual may be enrolled in this program without providing evidence of employment as described in subsection (l)(1) of this Section:
    - A) Individuals who are not employed at the time of application, but who can verify that they will be employed within 60 days, may be enrolled but will not be considered eligible until they begin employment and pay the appropriate premium in accordance with subsections (m) and (n) of this Section.
    - B) Individuals who become unable to work for medical reasons after enrollment in this program who wish to remain in the program. Such individuals:
      - i) Must report to the Department within 30 days after the first day that they were unable to work.
      - ii) Must provide a physician's written statement that they are unable to work, but that the anticipated date for the return to work is within 90 days after the first day they were unable to work.
      - iii) Must pay premiums in accordance with subsections (m) and (n) of this Section for the months during which they do not work.
    - C) Individuals who cease employment for any other reason may continue to be enrolled for 30 days after the employment ends provided they pay premiums in accordance with subsections (m) and (n) of this Section for the period during which they do not work.

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- 3) Eligibility shall be terminated:
  - A) If an individual determined to be employed according to subsection (1)(2)(A) of this Section does not provide evidence of employment pursuant to subsection (1)(1) of this Section within 30 days after enrollment.
  - B) If an individual is unable to work for medical reasons, as described in subsection (1)(2)(B) of this Section, for 90 days or more.
  - C) If an individual ceases employment for any other reason (subsection (1)(2)(C) of this Section) and does not obtain new employment within 30 days after cessation of employment.
  
- m) Premiums
  - 1) The Department must receive payment of the monthly premium for an applicant's initial prospective month of eligibility before the applicant can be enrolled in this program. If payment of the premium is received by the 20th day of the month, the initial month of prospective eligibility shall begin the first day of the following month. (For example, if the premium payment is received on February 20, coverage shall begin on March 1. If the premium payment is received after February 20 but before March 21, coverage shall begin on April 1.)
  - 2) Premiums for months of backdated coverage must be paid within 90 days after the date of the notice of eligibility approval.
  - 3) Subsequent premiums are due on the last day of the month prior to the month of coverage.
  - 4) If payment of the premium is not received in full by the end of the month following the due date of the premium, coverage will terminate effective the end of the second month following the due date and collection action may be initiated by the Department for the unpaid premiums for months of coverage.
  
- n) Determination of Premium Amount

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- 1) Premiums shall be based upon an individual's combined gross unearned and countable earned income as determined at the point of application or review or redetermination of eligibility.
- 2) The Department shall reset a premium prospectively based on verified income.
- 3) Premium amounts shall be established as set forth in the following monthly premium [table](#).

\$s Per Month

<u>Countable Earned Income</u>	<u>Gross Unearned Income</u>											
	<u>0- 250</u>	<u>251- 500</u>	<u>501- 750</u>	<u>751- 1000</u>	<u>1001- 1250</u>	<u>1251- 1500</u>	<u>1501- 1750</u>	<u>1751- 2000</u>	<u>2001- 2250</u>	<u>2251- 2500</u>	<u>2501- 2750</u>	<u>2751- 3000</u>
<u>0-250</u>	--	<u>19</u>	<u>38</u>	<u>56</u>	<u>75</u>	<u>94</u>	<u>113</u>	<u>131</u>	<u>150</u>	<u>169</u>	<u>188</u>	<u>206</u>
<u>251-500</u>	<u>6</u>	<u>25</u>	<u>44</u>	<u>63</u>	<u>81</u>	<u>100</u>	<u>119</u>	<u>137</u>	<u>156</u>	<u>175</u>	<u>194</u>	<u>212</u>
<u>501-750</u>	<u>13</u>	<u>31</u>	<u>50</u>	<u>69</u>	<u>88</u>	<u>107</u>	<u>126</u>	<u>144</u>	<u>163</u>	<u>182</u>	<u>201</u>	<u>219</u>
<u>751-1000</u>	<u>19</u>	<u>38</u>	<u>56</u>	<u>75</u>	<u>94</u>	<u>113</u>	<u>132</u>	<u>150</u>	<u>169</u>	<u>188</u>	<u>207</u>	<u>225</u>
<u>1001-1250</u>	<u>25</u>	<u>44</u>	<u>63</u>	<u>81</u>	<u>100</u>	<u>119</u>	<u>137</u>	<u>156</u>	<u>175</u>	<u>194</u>	<u>213</u>	<u>231</u>
<u>1251-1500</u>	<u>31</u>	<u>50</u>	<u>79</u>	<u>87</u>	<u>106</u>	<u>125</u>	<u>144</u>	<u>162</u>	<u>181</u>	<u>200</u>	<u>219</u>	<u>237</u>
<u>1501-1750</u>	<u>38</u>	<u>57</u>	<u>76</u>	<u>94</u>	<u>113</u>	<u>132</u>	<u>151</u>	<u>169</u>	<u>188</u>	<u>206</u>	<u>226</u>	<u>244</u>
<u>1751-2000</u>	<u>44</u>	<u>63</u>	<u>82</u>	<u>100</u>	<u>119</u>	<u>138</u>	<u>157</u>	<u>175</u>	<u>194</u>	<u>213</u>	<u>232</u>	<u>250</u>
<u>2001-2250</u>	<u>50</u>	<u>69</u>	<u>88</u>	<u>106</u>	<u>125</u>	<u>144</u>	<u>163</u>	<u>181</u>	<u>200</u>	<u>219</u>	<u>238</u>	<u>256</u>
<u>2251-2500</u>	<u>56</u>	<u>75</u>	<u>94</u>	<u>112</u>	<u>131</u>	<u>150</u>	<u>169</u>	<u>187</u>	<u>206</u>	<u>225</u>	<u>244</u>	<u>262</u>
<u>2501-2750</u>	<u>63</u>	<u>82</u>	<u>101</u>	<u>119</u>	<u>138</u>	<u>157</u>	<u>176</u>	<u>194</u>	<u>213</u>	<u>232</u>	<u>251</u>	<u>269</u>
<u>2751-3000</u>	<u>69</u>	<u>88</u>	<u>107</u>	<u>125</u>	<u>144</u>	<u>163</u>	<u>182</u>	<u>200</u>	<u>219</u>	<u>238</u>	<u>257</u>	<u>275</u>
<u>3001-3250</u>	<u>75</u>	<u>94</u>	<u>113</u>	<u>131</u>	<u>150</u>	<u>169</u>	<u>188</u>	<u>206</u>	<u>225</u>	<u>244</u>	<u>263</u>	<u>281</u>

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<a href="#">3251-3500</a>	<a href="#">81</a>	<a href="#">100</a>	<a href="#">119</a>	<a href="#">137</a>	<a href="#">156</a>	<a href="#">175</a>	<a href="#">194</a>	<a href="#">212</a>	<a href="#">231</a>	<a href="#">250</a>	<a href="#">269</a>	<a href="#">287</a>
<a href="#">3501-3750</a>	<a href="#">88</a>	<a href="#">107</a>	<a href="#">126</a>	<a href="#">144</a>	<a href="#">163</a>	<a href="#">182</a>	<a href="#">201</a>	<a href="#">219</a>	<a href="#">238</a>	<a href="#">257</a>	<a href="#">276</a>	<a href="#">294</a>
<a href="#">3751-4000</a>	<a href="#">94</a>	<a href="#">113</a>	<a href="#">132</a>	<a href="#">150</a>	<a href="#">169</a>	<a href="#">188</a>	<a href="#">207</a>	<a href="#">225</a>	<a href="#">244</a>	<a href="#">263</a>	<a href="#">282</a>	<a href="#">300</a>
<a href="#">4001-4250</a>	<a href="#">100</a>	<a href="#">119</a>	<a href="#">138</a>	<a href="#">156</a>	<a href="#">175</a>	<a href="#">194</a>	<a href="#">213</a>	<a href="#">231</a>	<a href="#">250</a>	<a href="#">269</a>	<a href="#">288</a>	<a href="#">306</a>
<a href="#">4251-4500</a>	<a href="#">106</a>	<a href="#">125</a>	<a href="#">144</a>	<a href="#">162</a>	<a href="#">181</a>	<a href="#">200</a>	<a href="#">219</a>	<a href="#">237</a>	<a href="#">256</a>	<a href="#">275</a>	<a href="#">294</a>	<a href="#">312</a>
<a href="#">4501-4750</a>	<a href="#">113</a>	<a href="#">132</a>	<a href="#">151</a>	<a href="#">169</a>	<a href="#">188</a>	<a href="#">207</a>	<a href="#">226</a>	<a href="#">244</a>	<a href="#">263</a>	<a href="#">282</a>	<a href="#">301</a>	<a href="#">319</a>
<a href="#">4751-5000</a>	<a href="#">119</a>	<a href="#">138</a>	<a href="#">157</a>	<a href="#">175</a>	<a href="#">194</a>	<a href="#">213</a>	<a href="#">232</a>	<a href="#">250</a>	<a href="#">269</a>	<a href="#">288</a>	<a href="#">307</a>	<a href="#">325</a>
<a href="#">5000 +</a>	<a href="#">125</a>	<a href="#">144</a>	<a href="#">163</a>	<a href="#">181</a>	<a href="#">200</a>	<a href="#">219</a>	<a href="#">238</a>	<a href="#">256</a>	<a href="#">275</a>	<a href="#">294</a>	<a href="#">313</a>	<a href="#">331</a>

\$s Per Month

<u>Countable Earned Income</u>	<u>Gross Unearned Income</u>									
	<u>3001- 3250</u>	<u>3251- 3500</u>	<u>3501- 3750</u>	<u>3751- 4000</u>	<u>4001- 4250</u>	<u>4251- 4500</u>	<u>4501- 4750</u>	<u>4751- 5000</u>	<u>5000+</u>	
<a href="#">0-250</a>	<a href="#">225</a>	<a href="#">244</a>	<a href="#">263</a>	<a href="#">281</a>	<a href="#">300</a>	<a href="#">319</a>	<a href="#">338</a>	<a href="#">356</a>	<a href="#">375</a>	
<a href="#">251-500</a>	<a href="#">231</a>	<a href="#">250</a>	<a href="#">269</a>	<a href="#">287</a>	<a href="#">306</a>	<a href="#">325</a>	<a href="#">344</a>	<a href="#">362</a>	<a href="#">381</a>	
<a href="#">501-750</a>	<a href="#">238</a>	<a href="#">257</a>	<a href="#">276</a>	<a href="#">294</a>	<a href="#">313</a>	<a href="#">332</a>	<a href="#">351</a>	<a href="#">369</a>	<a href="#">388</a>	
<a href="#">751-1000</a>	<a href="#">244</a>	<a href="#">263</a>	<a href="#">282</a>	<a href="#">300</a>	<a href="#">319</a>	<a href="#">338</a>	<a href="#">357</a>	<a href="#">375</a>	<a href="#">394</a>	
<a href="#">1001-1250</a>	<a href="#">250</a>	<a href="#">269</a>	<a href="#">288</a>	<a href="#">306</a>	<a href="#">325</a>	<a href="#">344</a>	<a href="#">363</a>	<a href="#">381</a>	<a href="#">400</a>	
<a href="#">1251-1500</a>	<a href="#">256</a>	<a href="#">275</a>	<a href="#">294</a>	<a href="#">312</a>	<a href="#">331</a>	<a href="#">350</a>	<a href="#">369</a>	<a href="#">387</a>	<a href="#">406</a>	
<a href="#">1501-1750</a>	<a href="#">263</a>	<a href="#">282</a>	<a href="#">301</a>	<a href="#">319</a>	<a href="#">338</a>	<a href="#">357</a>	<a href="#">376</a>	<a href="#">394</a>	<a href="#">413</a>	
<a href="#">1751-2000</a>	<a href="#">269</a>	<a href="#">288</a>	<a href="#">307</a>	<a href="#">325</a>	<a href="#">344</a>	<a href="#">363</a>	<a href="#">382</a>	<a href="#">400</a>	<a href="#">419</a>	
<a href="#">2001-2250</a>	<a href="#">275</a>	<a href="#">294</a>	<a href="#">313</a>	<a href="#">331</a>	<a href="#">350</a>	<a href="#">369</a>	<a href="#">388</a>	<a href="#">406</a>	<a href="#">425</a>	
<a href="#">2251-2500</a>	<a href="#">281</a>	<a href="#">300</a>	<a href="#">319</a>	<a href="#">337</a>	<a href="#">356</a>	<a href="#">375</a>	<a href="#">394</a>	<a href="#">412</a>	<a href="#">431</a>	
<a href="#">2501-2750</a>	<a href="#">288</a>	<a href="#">307</a>	<a href="#">326</a>	<a href="#">344</a>	<a href="#">363</a>	<a href="#">382</a>	<a href="#">401</a>	<a href="#">419</a>	<a href="#">438</a>	
<a href="#">2751-3000</a>	<a href="#">294</a>	<a href="#">313</a>	<a href="#">332</a>	<a href="#">350</a>	<a href="#">369</a>	<a href="#">388</a>	<a href="#">407</a>	<a href="#">425</a>	<a href="#">444</a>	
<a href="#">3001-3250</a>	<a href="#">300</a>	<a href="#">319</a>	<a href="#">338</a>	<a href="#">356</a>	<a href="#">375</a>	<a href="#">394</a>	<a href="#">413</a>	<a href="#">431</a>	<a href="#">450</a>	

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<a href="#">3251-3500</a>	<a href="#">306</a>	<a href="#">325</a>	<a href="#">344</a>	<a href="#">362</a>	<a href="#">381</a>	<a href="#">400</a>	<a href="#">419</a>	<a href="#">437</a>	<a href="#">456</a>
<a href="#">3501-3750</a>	<a href="#">313</a>	<a href="#">332</a>	<a href="#">351</a>	<a href="#">369</a>	<a href="#">388</a>	<a href="#">407</a>	<a href="#">426</a>	<a href="#">444</a>	<a href="#">463</a>
<a href="#">3751-4000</a>	<a href="#">319</a>	<a href="#">338</a>	<a href="#">357</a>	<a href="#">375</a>	<a href="#">394</a>	<a href="#">413</a>	<a href="#">432</a>	<a href="#">450</a>	<a href="#">469</a>
<a href="#">4001-4250</a>	<a href="#">325</a>	<a href="#">344</a>	<a href="#">363</a>	<a href="#">381</a>	<a href="#">400</a>	<a href="#">419</a>	<a href="#">438</a>	<a href="#">456</a>	<a href="#">475</a>
<a href="#">4251-4500</a>	<a href="#">331</a>	<a href="#">350</a>	<a href="#">369</a>	<a href="#">387</a>	<a href="#">406</a>	<a href="#">425</a>	<a href="#">444</a>	<a href="#">462</a>	<a href="#">481</a>
<a href="#">4501-4750</a>	<a href="#">338</a>	<a href="#">357</a>	<a href="#">376</a>	<a href="#">394</a>	<a href="#">413</a>	<a href="#">432</a>	<a href="#">451</a>	<a href="#">469</a>	<a href="#">488</a>
<a href="#">4751-5000</a>	<a href="#">344</a>	<a href="#">363</a>	<a href="#">382</a>	<a href="#">400</a>	<a href="#">419</a>	<a href="#">438</a>	<a href="#">457</a>	<a href="#">475</a>	<a href="#">494</a>
<a href="#">5000+</a>	<a href="#">350</a>	<a href="#">369</a>	<a href="#">388</a>	<a href="#">406</a>	<a href="#">425</a>	<a href="#">444</a>	<a href="#">463</a>	<a href="#">481</a>	<a href="#">500</a>

Gross Unearned Income

		\$0 to \$250	\$251 to \$500	\$501 to \$750	\$751 to \$1000	Over \$1000
Countable	\$0—\$250	—	\$19	\$38	\$56	\$75
Earned	\$250—\$500	\$6	\$25	\$44	\$63	\$81
Income	\$501—\$750	\$13	\$31	\$50	\$69	\$88
	\$751—\$1000	\$19	\$38	\$56	\$75	\$94
	Over \$1000	\$25	\$44	\$63	\$81	\$100

- o) Medicaid Buy-In Program Revolving Fund (see 305 ILCS 5/12-10.6)
  - 1) The Medicaid Buy-In Revolving Fund consists of premiums paid by eligible individuals under this Section.
  - 2) Monies in the Fund may be used to pay costs incurred by the Department for:
    - A) Administering the Health Benefits for Workers with Disabilities (HBWD) program, including, but not limited to, staff, equipment, travel, outreach activities and other operating costs.
    - B) Personal assistance services (PAS) provided at an individual's work site. PAS under the HBWD program is limited to individuals who do not already receive PAS, have a need for such services on the basis of a disability as described in Section 120.314, and,

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

except for their income and non-exempt assets, would be eligible for the Community Care Program as described at 89 Ill. Adm. Code 240. The need, amount and duration of PAS will be assessed through a determination of need process.

(Source: Amended at 33 Ill. Reg. 1681, effective February 1, 2009)

## AUDITOR GENERAL

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Information, Rulemaking, Organization and Personnel
- 2) Code Citation: 2 Ill. Adm. Code 600
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
600.610	Amended
600.614	Amended
600.618	Amended
600.622	Amended
600.626	Amended
600.630	Amended
600.634	Amended
600.646	Amended
600.650	Amended
600.654	Amended
600.658	Amended
600.662	Amended
600.666	Amended
600.670	Amended
600.674	Amended
600.678	Amended
600.680	New
600.682	Amended
600.686	Amended
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 2-10 of the Illinois State Auditing Act [30 ILCS 5/2-10] and authorized by Section 2-12 (a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]
- 5) Effective Date of Amendments: March 10, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Auditor General's Springfield office and is available for public inspection.

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- 9) Notice of Proposal Published in Illinois Register: Prior publication of internal rule in *Illinois Register* is not required.
- 10) Has JCAR issued a Statement of Objections to this rulemaking? Prior review of internal rule by JCAR is not required.
- 11) Differences between proposal and final version: Section 5-15 of the IAPA does not require 1<sup>st</sup> Notice publication and 2<sup>nd</sup> Notice JCAR review.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: To update the Auditor General's internal rules governing personnel to conform to changes in law and adopt best practices
- 16) Information and questions regarding these adopted amendments shall be directed to:

Rebecca Patton  
Legal Counsel  
Office of the Auditor General  
740 E. Ash St.  
Springfield, IL 62703

217/782-6698  
888/261-2887 (TTY)

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

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE C: CONSTITUTIONAL OFFICERS  
CHAPTER V: AUDITOR GENERAL

PART 600

PUBLIC INFORMATION, RULEMAKING, ORGANIZATION AND PERSONNEL

SUBPART A: PUBLIC INFORMATION

Section  
600.10 Procedures for the Public to Obtain Information

SUBPART B: RULEMAKING PROCEDURES

Section  
600.110 Introduction  
600.120 Rulemaking Procedures

SUBPART C: ORGANIZATION

Section  
600.210 Introduction  
600.220 Description of Organization of Office of the Auditor General

SUBPART D: PERSONNEL

Section  
600.610 Introduction  
600.614 Position Classification and Compensation  
600.618 Application and Appointment  
600.622 Work Schedule and Attendance  
600.626 Continuous Service  
600.630 Personnel Records and Performance Reviews  
600.634 Probationary Status  
600.638 Promotion  
600.642 Employee Transfer  
600.646 Demotion  
600.650 Layoff  
600.654 Voluntary Reduction

## AUDITOR GENERAL

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600.658	Resignation and Reinstatement
600.662	Employee Conduct
600.666	Discipline and Discharge
600.670	Grievance Procedure
600.674	Sick Leave
600.678	Vacation Leave
<a href="#">600.680</a>	<a href="#">Repayment of Benefit Time</a>
600.682	Leave for Personal Business
600.686	Leaves of Absence
600.690	Holidays
600.694	Overtime
600.698	Interpretation and Application of Rules
600.699	Savings Clause
600.APPENDIX A	Internal Office Rulemaking Procedures – Flow Chart
600.APPENDIX B	Organization Chart

**AUTHORITY:** Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 2-10 of the Illinois State Auditing Act [30 ILCS 5/2-10] and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)].

**SOURCE:** Personnel rules filed effective July 27, 1976; amended at 2 Ill. Reg. 52, p. 237, effective December 28, 1978; amended at 3 Ill. Reg. 41, p. 138, effective October 11, 1979; amended at 4 Ill. Reg. 1, p. 20, effective December 30, 1979; amended at 4 Ill. Reg. 12, p. 526, effective March 6, 1980; amended at 5 Ill. Reg. 8625, effective August 12, 1981; amended at 6 Ill. Reg. 7780, effective June 18, 1982; amended at 6 Ill. Reg. 11837, effective September 12, 1982; amended at 7 Ill. Reg. 9983, effective August 8, 1983; codified as Subpart D at 8 Ill. Reg. 1968; amended at 8 Ill. Reg. 3576, effective March 12, 1984; Procedures to be Followed by the Public in Obtaining Information (Article 3) adopted at 4 Ill. Reg. 26, p. 144, effective June 13, 1980; Internal Office Rulemaking Procedures adopted at 4 Ill. Reg. 26, p. 147, effective June 13, 1980; Agency Organization adopted at 4 Ill. Reg. 26, p. 151, effective June 13, 1980; Public Information, Rulemaking and Organization codified at 8 Ill. Reg. 18070; amended at 9 Ill. Reg. 7889, effective May 13, 1985; amended at 9 Ill. Reg. 18439, effective November 20, 1985; amended at 11 Ill. Reg. 10857, effective May 29, 1987; Part repealed, new Part adopted at 18 Ill. Reg. 6440, effective May 1, 1994; amended at 21 Ill. Reg. 12434, effective August 27, 1997; amended at 28 Ill. Reg. 14457, effective December 1, 2004; amended at 33 Ill. Reg. 1704, effective March 10, 2009.

## AUDITOR GENERAL

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## SUBPART D: PERSONNEL

**Section 600.610 Introduction**

- a) General
  - 1) Subject  
This Subpart establishes the basic policies governing personnel in the Office of the Auditor General.
  - 2) Equal Employment  
The Office of the Auditor General does not discriminate against any individual on any unlawful basis, including race, color, religion, sex, [sexual orientation](#), age, marital status, physical or mental disability, national origin, citizenship [status](#), [arrest record](#), political affiliation, ancestry, military status or unfavorable discharge from military service.
  - 3) Scope  
All payroll employees of the Office of the Auditor General are subject to the provisions of this Subpart.
- b) References
  - 1) Authority  
This Subpart is promulgated under the authority of Sections 2-10 and 2-12(a) of the Illinois State Auditing Act (Ill. Rev. Stat. 1991, ch. 15, pars. 302-10 and 302-12(a)) [30 ILCS 5/2-10 and 2-12(a)].
  - 2) Incorporations  
The following materials are incorporated by reference and made a part of this Subpart:
    - A) Standards of Construction for Rules, 74 Ill. Adm. Code 440.Subpart A; and
    - B) Definitions, 74 Ill. Adm. Code 440.Subpart B.
- c) Definitions

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"Auditor General" means the Auditor General of the State of Illinois.

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

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

"Deputy Auditor General" means Deputy Auditor General of the State of Illinois.

"Director" means a designated head of an organizational unit as reflected in the organizational chart. Where appropriate, the term "director" includes the Auditor General and Deputy Auditor General.

"Executive Employee" means a Director, a Legal Counsel, the Assistant to the Auditor General, and other employees as designated in their position descriptions.

"Immediate Family" means spouse, parents, stepparents, children, stepchildren, siblings, grandparents, grandchildren, and other persons abiding within the same household. For bereavement purposes, the term includes parents-in-law, brother- or sister-in-law, and children-in-law.

"Office" means Office of the Auditor General.

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

"Probationary Period" means a period of approximately six calendar months preceding receipt of notice of certification and after initial hiring from outside the Office or of approximately four (4) months after appointment to a position within the Office in which the employee has not previously been certified. [Probationary periods of longer duration may be imposed as provided in this Subpart.](#)

"State Auditor" means a State payroll employee of the Office who has

## AUDITOR GENERAL

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been authorized by the Auditor General to conduct audits, investigations and studies and who has been appointed State Auditor in accordance with this Subpart.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.614 Position Classification and Compensation**

## a) Position Classification

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

## AUDITOR GENERAL

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employee of the determination concerning the proper allocation of his or her position.

- 5) Reconsideration:
    - A) Within 30 days after receiving notice of the decision, the employee may make a request in writing of the Director for reconsideration of the decision. Thereafter, the Director shall reinvestigate the duties and responsibilities of the position and, if necessary, of related positions. The employee shall be given a reasonable opportunity to be heard.
    - B) After the re-investigation, the Director shall render a decision in writing and it shall be served on the employee in person or by certified mail, return receipt requested, at the employee's last address shown in the personnel file. The effective date of the reconsidered decision shall be the effective date of the allocation decision giving rise to the reconsideration request.
    - C) An employee wishing to appeal the reconsidered decision shall be entitled to a hearing by the Grievance Review Committee in accordance with the procedures established in Section 600.670 of this Part.
  - 6) Assignments to other Classifications: An employee whose position has been allocated to a classification having a higher, lower, or same maximum permissible salary or rate may remain in the position, provided however that the Director shall determine in the case of allocation to a class having a higher maximum salary or rate whether, considering the nature of [thesueh](#) change in duties, [thesueh](#) employee is qualified for the position.
  - 7) Revised Class Requirements: When requirements for a classification are revised and the duties and responsibilities of positions comprising the classification remain essentially unchanged, incumbents in these positions who qualified under the previous requirements for the classification will be considered qualified.
- b) Compensation Plan

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- 1) Establishment of Plan: The Auditor General shall establish and maintain a Pay Plan for all employees. The Pay Plan shall designate a salary range for each position classification. The salary for any particular position shall be fixed by the Auditor General within the designated salary range and based, in his discretion, on the duties, responsibilities and work requirements of that position as they relate to the total duties, responsibilities and work requirements of the Office.
- 2) Provisions of the Pay Plan: The Pay Plan shall provide for starting rates of pay, and the time and manner in which subsequent changes of salary may be made. The rate each employee is to be paid shall be set forth in appropriate documents contained within his or her personnel file. The Pay Plan may also include other provisions not inconsistent with law to assist in the administration of good personnel practices for the Office.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.618 Application and Appointment**

- a) Applications for Employment
  - 1) Notice: Positions shall be advertised in the offices by posting unless the Auditor General directs otherwise. Other recruitment methods may be used as deemed appropriate.
  - 2) Submission of Application
    - A) Persons seeking employment must submit an application, resume or other document demonstrating education and experience.
    - B) Employees seeking positions within the Office must apply in writing to the Director of the organizational unit in which the desired position is located.
  - 3) Screening of Applicants
    - A) Interviews: Directors or their designees are responsible for screening applications for positions. Interviews may be conducted

## AUDITOR GENERAL

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as part of the screening process.

- B) Examinations: The Auditor General may require applicants to take examinations as a means to assess knowledge, skills and the ability to perform the duties of the position.

4) Criteria for Selection

- A) Selection may be based on education, experience, interviews, references, and examinations, if conducted. Other factors such as experience within the Office may also be considered.
- B) Pre-employment screening of applicants, including but not limited to performance tests, job knowledge tests, personality inventory or other psychological tests, background checks and routine reference verifications, may be performed at the direction of a Director if job related and done in compliance with applicable federal or State statutes and regulations.
- C) If, following the screening process, the Director desires to place an applicant in a position, the Director shall submit his or her recommendation to the Auditor General for final action.
- D) A central file of all applicants who applied for or were considered for a position, along with appropriate supporting materials, will be maintained for a minimum of three years from the date the position is filled or a decision to not fill the position is made.

b) Appointment

- 1) The Auditor General shall notify applicants in writing of their appointment to a position. ~~The Such~~ notification shall state the position classification, work location, starting salary, and the beginning date of employment in the position. Appointments become effective upon the applicant's reporting for work at the place and time designated in the notification.
- 2) Types of Appointments: The following types of appointments may be made by the Auditor General:

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- A) Probationary Employees: All appointments for newly hired employees shall be subject to the employee's performance through two (2) consecutive performance appraisals of approximately three (3) months each and receipt of notification that the employee has been certified in the position to which appointed. The six (6) month probationary period may be extended up to six (6) additional months by mutual agreement of the parties. At any time during ~~their~~this probationary period, newly hired employees may be discharged without notice, cause or any right to a hearing.
- B) Certified Employees: Employees successfully completing a probationary period shall be appointed to certified status. Appointment to certified status shall be effective upon receipt of written notice from the Auditor General or his designee.
- C) Permanent Part Time Employees: Employees authorized by the Auditor General to perform duties and responsibilities on a regular but less than full-time basis shall be appointed to permanent part-time status. Permanent part time employees shall receive compensation and benefits, if eligible, at a pro-rated proportion of that received by full time employees in that classification.
- D) Acting Status: An employee assigned to acting status for any position shall, at the Auditor General's discretion, be paid in accordance with the salary range allocated to the position and the responsibilities incurred as a result of the acting assignment; provided, however, that ~~thesueh~~ payment shall not be lower than the employee's base salary immediately prior to his or her acting assignment. An employee removed from acting status shall be returned to the same or similar position which he or she held prior to the acting status appointment. The employee's salary shall be not less than his or her salary at the time he or she was appointed to the acting status.
- E) Executive Employees: Executive Employees serve at the discretion of the Auditor General and may be discharged or demoted at any time without notice, cause or any right to a hearing.
- 3) State Auditors: In addition to any other type of status, employees may be

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appointed as State Auditors at the discretion of the Auditor General.

- A) Appointment to Status of State Auditor: The Auditor General shall appoint an employee to the status of State Auditor only upon the recommendation of a Director and the employee's successful completion of any required training course. The Auditor General shall instate employees as State Auditors by signing their credentials and placing them in their custody.
- B) Removal: The Auditor General may remove an employee from State Auditor status. An employee who is terminated is automatically removed from the status of State Auditor. An employee who is removed from the status of State Auditor shall immediately return his or her credentials to a Director or to the Auditor General.
- C) Reinstatement: The Auditor General may reinstate an employee to State Auditor status by returning the credentials to the employee.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.622 Work Schedule and Attendance**

- a) The Auditor General shall establish and maintain on file a schedule of working hours for the Office.
- b) The Office shall maintain daily attendance records.
- c) An employee shall, whenever possible, provide advance notice of absence from work. For those positions specified in the Pay Plan, any time away from scheduled work hours that is not specifically authorized, including tardiness and early departure, shall constitute cause for a deduction from pay. ~~Such time shall include tardiness and early departure.~~ Absence of an employee for five (5) consecutive workdays without reporting to the appropriate Director may be cause for discharge. Excessive absenteeism that is not considered a serious health condition under the Family and Medical Leave Act will lead to disciplinary action, up to and including termination.
- d) In the event of an emergency shutdown caused by a condition beyond the

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agency's control, such as equipment failure, fire, flood, snow, tornado or other natural disaster, the agency will notify affected employees. The agency will attempt to reassign affected employees to alternative work locations during the period the facility is shut down. For employees the agency is unable to reassign, time in non-work status as a result of the emergency shut down is with pay. Those employees on approved sick leave or vacation at the time of shut down shall be reported in accordance with the prior approved absence.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.626 Continuous Service**

- a) Definition:
- 1) Continuous service is the uninterrupted period of service from the date of original appointment to State service.
  - 2) Employees who have previous State service which qualified for earning of vacation benefits shall be given credit for ~~that~~ service, as determined by the Office or as required by law.
- b) Interruptions in Continuous Service: Continuous service shall be interrupted by:
- 1) Resignation; provided, however, that continuous service will not be interrupted by resignation when an employee is employed in another position in State service within four (4) calendar days of resignation;
  - 2) Discharge; provided, however, continuous service shall not be interrupted if the employee is retained in the position after a hearing before the Grievance Review Committee or other administrative review process, or by a court; and
  - 3) Termination; because an employee has not been reemployed within 1 year after layoff.
- c) Deductions from Continuous Service: Except as provided in subsection (f) below, the following shall be deducted from, but shall not interrupt, continuous service:
- 1) Time away from work for any leave of absence without pay

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- ~~totaling~~ more than thirty (30) days in any twelve-month period;
- 2) Time away from work because of disciplinary suspensions ~~totaling~~ more than thirty (30) days in any twelve-month period;
- 3) Time away from work because of indeterminate layoff.
- d) Veterans Continuous Service: Leaves of absence shall be granted to all employees who leave their positions and enter military service for five (5)~~four (4)~~ years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or similar position on making an application within 90 days after separation from active duty or from hospitalization or convalescence continuing after discharge of not more than two years~~one (1) year~~. The employee must provide evidence of satisfactory completion of training and military service when making application and be qualified to perform the duties of the position. Continuous service and reemployment rights for veterans subject to federal law shall be as provided in the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4333).
- e) Peace Corps or Job Corps Enrollees Continuous Service: Any employee who volunteers and is accepted for service in the overseas or domestic Peace Corps or Job Corps shall be given a leave of absence from his or her State employment for the duration of his or her initial period of service and be restored to the same or similar position provided that the employee returns to his or her employment within ninety (90) days of the termination of his or her service or release from hospitalization from a service Peace Corps or Job Corps connected disability.
- f) Accrual and Retention of Continuous Service During Certain Leaves: During an absence for family and medical, educational, administrative, military, Peace Corps or Job Corps, disaster service volunteer or service-connected disability leaves, an employee shall retain and accrue continuous service provided appropriate application and return is made as required by this Subpart.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.630 Personnel Records and Performance Reviews**

- a) Personnel Records

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- 1) A personnel file shall be established for each employee upon his or her entry into employment and shall be maintained by the custodian designated by the Auditor General. When the following records are maintained, they must be maintained in the personnel file:
  - A) Applications for employment, letters of recommendation, resumes and school transcripts
  - B) Offers and acceptances of employment
  - C) Employee information cards
  - D) Personnel transaction forms
  - E) Written commendations and disciplinary actions
  - F) Annual [and probationary](#) performance appraisals
- 2) Records not otherwise confidential are not made confidential because of their inclusion in the personnel file.
- 3) An employee is entitled to view his or her personnel file during working hours with reasonable notice to the custodian. [TheSueh](#) records may be inspected only in the presence of an authorized employee. Certain records in the personnel file, in accordance with the law, may be withheld from the employee's inspection. In addition, personnel files may be viewed by the Auditor General, a Deputy Auditor General, the custodian and other employees, at the discretion of the Auditor General, on a need-to-know basis only.
- 4) An employee shall be notified of any additions to or deletions from his or her personnel file. If an employee disagrees with any information contained in a personnel record, the employee may submit a written statement explaining his or her position for inclusion in the personnel file.
- 5) Performance records shall constitute material in an employee's personnel file which is relevant to determining the appropriateness of proposed or

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recommended personnel transactions.

- 6) Performance records shall be considered in all cases, unless excepted by this Subpart, of promotion, demotion, discharge, layoff, reinstatement, merit salary increases and certification. In considering any potential change in an employee's current status, the employee's most recent performance records may be given greater weight than the employee's earlier performance records.
- b) Performance Evaluations: Performance records shall include an evaluation of employee performance prepared at least annually on prescribed forms. Executive employees shall be evaluated in the time and manner prescribed by the Auditor General.
- 1) For an employee serving a six (6) month probationary period, two evaluations shall be prepared and submitted to the personnel file custodian – one at the end of the third month of the employee's probationary period and another before the conclusion thereof. [If the probationary period is extended as provided in Section 600.634, the number and timing of performance evaluations during the extended period will be determined by the Office at the time of extension.](#)
  - 2) For an employee serving a four (4) month probationary period as a result of a promotion, one evaluation shall be prepared and submitted to the personnel file custodian before the conclusion thereof. [If the probationary period is extended as provided in Section 600.634, the number and timing of performance evaluations during the extended period will be determined by the Office at the time of extension.](#)
  - 3) Additional performance evaluations of individual employees may be conducted as deemed necessary.
  - 4) Employees shall be required to sign all evaluation forms to indicate they have read the evaluation and it has been discussed with them.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.634 Probationary Status**

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- a) Probationary Period:
- 1) A probationary period of approximately six (6) months shall be served by a full-time employee who is newly hired from outside the Office. The six (6) month probationary period may be extended up to six (6) additional months by mutual agreement of the parties.
  - 2) A probationary period of approximately four (4) months shall be served by a full-time employee who is promoted. The four (4) month probationary period may be extended up to two (2) additional months by mutual agreement of the parties. A probationary employee transferred during the probationary period shall serve that portion of the probationary period which was not completed at the time of ~~the~~ transfer.
  - 3) The length of a probationary period for a newly-hired permanent part-time employee or a promoted permanent part-time employee shall be determined on a case-by-case basis at the time of hiring or promotion.
  - 4) If an employee is absent from work for more than fifteen (15) calendar days during the probationary period, the probationary period shall be extended by the length of the absence.
  - 5) Probationary employees who have not attained certified status shall have no right to grievance procedures with regard to termination, demotion or any other employment action.
- b) Certified Status: A probationary employee shall attain certified status only after successful completion of a probationary period and receipt of notice of certification from the Auditor General or his designee.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.646 Demotion**

- a) Definition:
- 1) Demotion is the assignment of an employee to a position in a classification having a lower maximum permissible salary than the former classification, made for reasons of inability to perform the work of the position from

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which the demotion was made.

- 2) A Director may initiate demotion of an employee by submitting a written statement of reasons for demotion containing sufficient facts to show good cause for the demotion. No demotion shall become effective without the prior approval of the Auditor General.
- b) Notice to Employee: If the statement of reasons for demotion of a certified employee is approved by the Auditor General, a copy of the approved statement of reasons for demotion shall be served on the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.
- c) Employee Obligations: Upon receipt of the approved statement of reasons for demotion or upon the effective date of demotion, whichever is later, the employee shall leave the position in which assigned prior to receipt of the notice of demotion and report for work to the position to which demoted. An employee's report for work to the position to which demoted shall be without waiving any right to appeal under subsection (e), below.
- d) Salary and Other Benefits of Employee: Upon receipt by the employee of the approved statement of reasons for demotion, or on the effective date thereof, whichever is later, all salaries and benefits of the employee in the position in which assigned prior to receipt of ~~thesuch~~ statement of reasons shall be adjusted to reflect the demotion.
- e) Appeal by Certified Employee: An employee who is certified in the position from which he or she is demoted may appeal the demotion to the Grievance Review Committee in accordance with the procedures established in Section 600.670 of this Part ~~by submitting a request for hearing in writing within fifteen (15) calendar days of receipt of the approved statement of reasons for demotion. No later than ten (10) working days prior to the hearing, the employee shall submit a written statement setting forth his or her position to the Grievance Review Committee, unless the time is extended in writing by the Chair.~~
- f) Demotion of Other Employees: The Auditor General may approve the demotion of probationary employees and certified employees from positions in which they are serving a probationary period. Notice of demotion shall be served on the employee in person or by certified mail, return receipt requested, at the

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employee's last address appearing in the personnel file. The demotion of probationary employees who are not certified in their positions is not appealable.

- g) Status of Demoted Employees: A demoted employee shall serve a probationary period in the position to which demoted unless the employee previously held certified status in that classification, in which case the demotion shall be to certified status in the demoted classification.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.650 Layoff**

- a) Definition: A layoff is the placement of an employee in non-paid and non-working status without prejudice either temporarily or indeterminately. Layoff may not be used as a means or form of discipline.
- b) Temporary Layoff: The Auditor General may temporarily layoff any employee for not more than five (5) scheduled workdays in any 12-month period as a result of or for lack of work or lack of funds. Temporary layoffs affecting more than one employee may occur with varying effective dates or may occur sequentially and from time to time as long as no employee is temporarily laid off for more than five scheduled workdays in any 12-month period. Subject to the agency's operating needs, the employee's preference in scheduling a temporary layoff shall be given consideration. An employee is not entitled to use any accrued benefit time in lieu of temporary layoff. Notice of temporary layoff shall be served on the employee ten (10) working days in advance of the effective date unless extraordinary operating conditions or events preclude giving this amount of advance notice. Upon expiration of a temporary layoff, the employee shall be returned to the position, position classification and location from which temporarily laid off.
- c)a) Indeterminate Layoff Procedure
- 1) A Director may request the indeterminate layoff of an employee because of lack of funds, material change in duties or organization, reduced workload or lack of work, or the abolition of the employee's position. Based on classification, division or other designation, layoffs shall be within organizational units justified by operations.
  - 2) A proposed layoff plan is subject to the Auditor General's approval before

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becoming effective and shall include the following:

- A) A list of all employees in the organizational unit in classifications affected by the layoff plan, showing status and total continuous service;
- B) A list of those employees to be laid off;
- C) Performance records of all employees affected by the layoff plan; and
- D) An explanation of the organizational unit selected, reflecting division, geographical, operational, and other elements deemed relevant by the Director.

3b) Order of Layoff

A1) No certified employee may be laid off until all newly-hired probationary employees in the same position classification, work location and organizational unit are laid off~~terminated~~.

B2) In accordance with the layoff plan submitted under this subsection ~~(a)~~, above, consideration shall be given to performance records and continuous service.

4e) Effective Date of Layoff: Unless extraordinary operating conditions or events are specified in the proposed layoff plan, no indeterminate layoff shall be effective until ten (10) working days after the Auditor General's approval of the layoff plan.

5d) Layoff Rights: For a period of twelve (12)~~six (6)~~ months following the effective date of his or her indeterminate layoff, a laid off employee shall be notified of any vacancy in the same position classification, work location and organizational unit held by the employee at the time of layoff and be given an opportunity to apply for that vacancy.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.654 Voluntary Reduction**

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

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.658 Resignation and Reinstatement**

- a) Resignation: An employee who voluntarily leaves his or her position of employment with the Office shall, except in emergency circumstances approved by the Auditor General, give advance notice of intent not less than ten (10) working days before the effective date of the resignation. Once an employee submits a resignation, the resignation shall not be revoked unless the revocation is requested by the employee and the revocation is approved by the agency head. Resignation in good standing means that the employee gave the required notice, or that emergency circumstances justified failure to do so, and that the employee's conduct and work performance were satisfactory at the effective date thereof.
- b) Reinstatement: On request of a Director, the Auditor General may, in his discretion, reinstate an employee who was formerly certified and who resigned or was terminated in good standing or whose position was reallocated downward or who was laterally transferred [or subject to indeterminate layoff](#). [Reinstatement](#)~~Such reinstatement~~ may be to a position in the classification to which the employee was assigned prior to resignation, termination, downward allocation, lateral transfer, or layoff or to an equivalent or lower position in a related classification. A reinstated employee shall serve a [four \(4\)](#)~~six~~ month probationary period in the position to which reinstated.

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(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.662 Employee Conduct**

- a) Standards of Conduct: Employees of the Office shall obey the rules of conduct of this Office and shall be aware that the absence of a specific published rule of conduct covering an act tending to discredit an employee, this Office or the State of Illinois does not mean the act is condoned or permissible or would not call for, and result in, disciplinary action.
- b) Conflicts of Interest
  - 1) General Provisions  
No employee shall violate any law, rule, regulation, policy or standard concerning conflicts of interest nor shall any employee engage in any conduct in which the employee's private interests or involvements are, or may reasonably be construed to be, in conflict with or detrimental to the objective performance of his or her official duties and responsibilities.
  - 2) Disclosure Statement to the Auditor General
    - A) The purpose of the Disclosure Statement required by this Subsection is to aid the Auditor General in maintaining the objectivity and impartiality of the conduct of the activities of the Office and, where a potential conflict is unavoidable, to provide for the full disclosure of the facts and circumstances involved.
    - B) Disclosure Statements shall be confidential. The Auditor General shall designate a custodian who shall be responsible for the safekeeping of Disclosure Statements. The Auditor General, a Deputy Auditor General, the custodian, and others designated by the Auditor General on an as-needed basis may review Disclosure Statements.
    - C) Each employee shall file with the custodian a Disclosure Statement which indicates involvements or relationships which could affect the employee's performance of his or her official duties.

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- D) Employees shall file their Disclosure Statements with the custodian immediately upon employment and shall refile their Statements by May 1st annually thereafter. Employees shall be under a continuing duty to advise the custodian promptly in writing of any change which would affect an answer given on their current Disclosure Statements or which might affect the objective or efficient performance of their duties.
- c) Political Activities
- 1) Participation in Public Campaigns  
An employee may participate in public campaigns while in the employment of the Office provided that the employee's official position is not used, shown, or advertised in connection with the campaign and that the employee does not violate any prohibitions of this Subsection.
- 2) Prohibited Activity  
Employees shall not, at any time, engage in the following actions:
- A) Use, threaten to use or offer to use the influence or authority of his or her position to coerce or to persuade any person to follow any course of political action or to make any contribution to a political cause.
- B) Use State time, [position](#), money, or property for the purposes of political activity.
- C) Hold an elective or appointive office in any political party or other organization whose primary function is to promote and encourage the election of certain individuals to public office.
- D) Participate in or contribute to any public campaign which involves a candidate who is running for or currently employed by, or on leave from, an office or agency over which the Auditor General has audit authority.
- E) Hold any elective [or appointive](#) office that would require attention to duties during the Office's working hours.

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- d) Official Conduct
- 1) Criticism of Agencies  
No employee shall make use of any information gained in the course of his or her employment with the Office to publicly criticize any State, local, or private agency.
  - 2) Handling Antagonism or Refusals  
When an employee is faced with a situation in which the agency's representative appears antagonistic or refuses to release information or documentation, the employee shall report the fact to his or her supervisor. Employees shall at no time threaten or coerce any person.
  - 3) Self-disqualification From Certain Assignments  
When an employee receives an assignment involving a person acting as a representative for any public or private agency with whom he or she has had business or other relationships of a nature that might impair, or give the appearance of impairing, the employee's impartiality or independence, the employee will discuss with his or her supervisor the possible need to have the matter reassigned.
  - 4) Agencies Under Audit  
If an audit team member is approached about possible employment with an agency under audit, he or she will notify his or her supervisor promptly. An employee may not initiate or pursue employment activities with an agency that the employee is currently participating in an audit of.
  - 5) Use of Identification  
Credentials issued to employees are for use only in establishing identity or authority in connection with official duties. Employees shall not allow the use of their credentials by any other person.
- e) Use of State Time, Position and Property
- 1) Personal Use Prohibited  
Employees are forbidden to use State time, position or property for personal purposes.
  - 2) Protection [and Inspection](#) of Property

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Employees have a responsibility to protect and conserve all State property. Consistent with applicable laws, the Office retains the right to control or inspect property that it owns or maintains, including, but not limited to, items such as desks, lockers, desk and cabinet drawers, vehicles, and computers.

- 3) **Liability for Damage or Loss**  
Employees may be held financially liable for damage or loss of State property resulting from their negligent, wilful or wanton acts or omissions. Costs for damage to or loss of State property may be deducted from the responsible employee's pay.
  - 4) **Reporting Damage or Loss**  
Employees shall promptly report any loss, theft, or damage to State property or documents in their custody to their supervisor.
  - 5) **Return of Equipment**  
Upon leaving their position with the Office, employees shall return all property and credentials assigned to them. At its option, the Office may withhold an employee's final paycheck pending return of State property and credentials assigned to or in the possession of that employee or deduct the value of any unreturned Statesueh property from the departing employee's final paycheck.
- f) **Disclosure of Official or Confidential Information**
- 1) **Testifying and Responding to Subpoenas**  
When requested or subpoenaed to testify or produce documentation pertaining to confidential information before an executive or legislative commission or a court of law, employees shall notify the Auditor General prior to giving thesueh testimony or producing sueh documentation.
  - 2) **Engagements to Speak or Write**
    - A) No employee may accept invitations for public addresses or submit articles for publication which concern the official activities of the Office without obtaining the prior approval of the Auditor General.
    - B) An employee may not accept compensation, or permit his or her

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expenses to be paid by sources other than the State of Illinois, for speaking engagements or writings performed as official duties, except with the prior approval of the Auditor General.

- g) Secondary Employment: Employees may not hold secondary employment or be involved in a private enterprise if the employment or enterprise actually does or has the potential to interfere or conflict with his or her State position, or reasonably may be viewed by others as interfering with or conflicting with his or her State position. Employees who engage in secondary employment or private enterprise shall avoid any action which might result in:
- 1) Any activities that take the employee's time and attention during official working hours or adversely affect job performance;
  - 2) Use of State equipment, facilities, supplies, prestige or one's office of employment for personal use or private gain;
  - 3) Use of any information identified as confidential by the agency, State or federal law; or, the use of any information not available to the public which is gained by being a State employee, for direct or indirect personal advantage or private gain; and
  - 4) Any activity which reflects unfavorably on the Office.
- h) Educational Materials and Missions: For purposes of further defining exceptions to the Gift Ban [5 ILCS 430/10-15], "educational materials and missions" shall mean those materials and missions that:
- 1) have a close connection to the recipient officer's or employee's State employment or the mission of the Office;
  - 2) predominately benefit the public and not the employee or officer; and
  - 3) are approved by the Office's ethics officer in advance of the mission or receipt of the materials, if practicable. If it is not practicable to obtain advance approval, the mission and materials shall be reported to the Office's ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance. The following items may be accepted without ethics officer approval:

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- A) Single copies of academic or professional publications or software in the employee's or officer's area of responsibility or field of study; and
  - B) Waiver of conference registration fees for officers or employees serving as conference speakers, committee members or invitees of the conference host.
- i) Travel Expenses for a Meeting to Discuss State Business: For purposes of further defining exceptions to the Gift Ban [5 ILCS 430/10-15], "travel expenses for a meeting to discuss State business" shall mean travel that:
- 1) has a close connection to the recipient officer's or employee's State employment;
  - 2) predominately benefits the public and not the employee or officer;
  - 3) is for travel in a style and manner in character with the conduct of State business; and
  - 4) is approved by the Office's ethics officer in advance of the travel, if practicable. If it is not practicable to obtain advance approval, the travel shall be reported to the Office's ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.666 Discipline and Discharge**

- a) Termination at the Discretion of the Auditor General: Probationary employees who have not obtained certified status in the Office and Executive Employees may be terminated at any time, without notice, cause or any right to a hearing, at the discretion of the Auditor General. Probationary employees who have not obtained certified status in the Office and Executive Employees do not have any right to progressive corrective discipline procedures, as set forth in this Section.
- b) Progressive Corrective Discipline

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- 1) Unless grounds clearly are present warranting immediate discharge or suspension pending decision on discharge, employees shall be subject to corrective discipline progressively applied utilizing counseling, warnings, and/or suspensions, as the facts and circumstances dictate, prior to discharge. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, the employee may be discharged in accordance with the appropriate rules below. This subsection does not apply to employees subject to subsection (a), above.
- 2) Grounds warranting immediate discharge or suspension pending decision on discharge shall include, but are not limited to, any violation of the Illinois State Auditing Act or any other law or rule governing the employee's conduct or duties as an employee of State government, this Subpart, any other rule or regulation of the Office or policies promulgated pursuant thereto, or misrepresentation of education, experience or professional qualifications.
- c) Discipline – ~~Written~~ Warnings: A Director or designee may warn an employee either orally or in writing as a disciplinary measure. A copy of any written warning shall be signed by the appropriate Director and placed in the employee's personnel file. A copy of ~~any written~~the warning shall be delivered in person or sent by certified mail, return receipt requested, to the last address of the employee appearing in the personnel file. An employee shall have the right to respond to the warning in writing within ten (10) calendar days of its receipt and any ~~such~~ response shall be included in the employee's personnel file.
- d) Suspension: A Director may suspend an employee without pay for up to thirty (30) days in any twelve (12) month period. A longer suspension may be approved by the Auditor General. The Director shall provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The written charges shall be signed by the Director and contain a clear and concise statement of facts showing cause for the suspension. One copy of the notice of suspension shall be placed in the employee's personnel file and one copy shall be delivered to the payroll clerk. Unless delay will result in clear harm or damage to a division, the employee shall be informed in writing of the proposed suspension and the reasons therefor at least four (4) working days prior to the effective date of the

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suspension. The employee shall have two (2) working days after being informed of the proposed suspension within which to address to the Director written rebuttal to the reasons given for the suspension. The suspension shall be effective unless a decision not to suspend the employee is~~shall be~~ rendered in writing before the proposed suspension date.

- e) Discharge of Certified Employee:
- 1) Cause for Discharge: Cause for discharge consists of some substantial shortcoming which renders the continuance of an employee in a State position in some way detrimental to the discipline and/or efficiency of the service and which the law or sound public policy recognizes as good cause for the employee no longer being held in that position.
  - 2) Suspension Pending Decision on Discharge: The Office may suspend any employee for up to thirty (30) days pending the decision on whether charges for discharge shall be filed against the employee. The Office shall, at the time of this suspension, provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The Office shall promptly investigate the facts and circumstances and render its decision. Should the Office determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the Office determine that a disciplinary suspension is appropriate, subsection (d) shall apply in its entirety. Should the Office determine that discharge of the employee is appropriate, subsection (e)(3) shall apply in its entirety.
  - 2) ~~Pre-Termination Hearing: Before charges for discharge may be brought against any certified, non-Executive Employee, the employee shall be apprised of the basis for such action and provided with an opportunity to respond to the charges in accordance with the following standards:~~
    - A) ~~The employee will be notified in writing of the intended discharge;~~
    - B) ~~A statement of charges in support of the proposed action, full and complete to the Office's knowledge at the time it is drawn, will be given to the employee, including the name of any known witness and a copy of any document pertinent to the charges.~~

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- ~~C) The employee shall have five (5) working days after receipt of the charges and prior to the effective date of the discharge in which to respond to them orally or in writing.~~
  - ~~D) The employee is entitled to representation in any meeting by any person or organization.~~
  - ~~E) The employee shall remain in paid status pending the response but not necessarily be permitted to work.~~
  - ~~F) The employee or the employee's representative shall be permitted access to a designated area or a secure area of the work place to investigate the charges and, upon request, be provided a copy of other pertinent documents.~~
  - ~~G) The failure of the employee to respond to the charges within the time limits shall not bar the Office from proceeding with the discharge.~~
  - ~~H) When the investigation of the charges causes them to be altered in fact, form, context, or reference from those given the employee at the time the notice was issued and for which the employee has not had an opportunity to respond, a second notice and opportunity for response will be given to the employee.~~
  - ~~I) The Auditor General or designee shall receive the response of the employee, whether it is oral or written.~~
- 3) ~~Suspension Pending Decision on Discharge: The Office may suspend any employee for up to thirty (30) days pending the decision on whether charges for discharge shall be approved against such employee. The Office shall, at the time of this suspension, provide the employee with written reasons therefor in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The Office shall promptly investigate the facts and circumstances and render its decision. Should the Office determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the Office~~

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~~determine that discharge of the employee is appropriate, subsection (e)(4) shall apply in its entirety.~~

34) Discharge of Certified Employee:

- A) The Auditor General or designee may, ~~after compliance with subsection (e)(2),~~ initiate discharge of a certified employee by filing signed written charges for discharge. Written charges shall contain a clear and concise statement of facts showing good cause for discharge, ~~and shall be accompanied by a copy of the employee's performance records. The final notice of discharge shall contain a statement that the response of the certified employee has been considered before a final decision was made, or that no response was submitted.~~ Notice of approved charges for discharge shall be served on the employee, in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.
- B) Before a discharge shall be effective, the certified employee shall receive by certified mail or by delivery in person a written copy of the charges, a copy of the evidence against him or her or a reasonable summary of the evidence designed to give the employee sufficient information to respond to the charges against him or her, and have at least four (4) working days within which to respond to the charges with reasons and evidence why discharge should not occur. The certified employee's response, which should include matters in defense and/or mitigation, may be in writing or orally presented as directed by the Auditor General or his designee before 4:30 p.m. on the fourth working day after the certified employee has received notice of the proposed discharge, counting the day of service as the first day. The certified employee may be suspended pending discharge for these four working days, and, if suspended, shall remain suspended until a final decision on discharge is made.
- C) After receipt of the certified employee's written or oral response to the proposed discharge, the Auditor General or his designee shall carefully consider all matters submitted by the employee. The Auditor General or his designee shall make a decision within a reasonable time after receipt of the employee's response, or after the

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expiration of the four (4) working days if no response is received. If more than ten (10) working days to make a decision is required, the employee shall be notified of that fact in writing by certified mail or hand delivery. The final notice of discharge shall contain a statement that the response of the certified employee was considered before a final decision was made, or that no response was submitted.

D) Notice of approved charges for discharge shall be served on the employee by the Auditor General or his designee, in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.

E) Upon receipt by the employee of charges for discharge, the employee shall leave the place of employment and return to the Auditor General or his designee any State identification, keys, supplies, tools or other property.

f) Discharge of Probationary Employee: The Auditor General may approve the discharge or suspension of a probationary employee who has not obtained certified status in the Office and Executive Employees. Written notice of discharge or suspension shall be delivered to the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.

~~g) Employee Obligations: Upon receipt by the employee of any disciplinary suspension or charges for discharge, the employee shall leave the place of employment.~~

~~gh) Hearing – Certified Employees: Certified employees who have been served with approved charges for suspension or discharge may appeal to the Grievance Review Committee as provided in Section 600.670 of this Part by submitting a request for hearing in writing within fifteen (15) calendar days of receipt of the approved charges for suspension or discharge. No later than ten (10) working days prior to the hearing, the employee shall submit a written statement setting forth his or her position to the Auditor General, unless the time is extended in writing by the Auditor General.~~

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- [hi](#)) Reinstatement From Suspension or Discharge: An employee reinstated for the period for which he or she was suspended or discharged shall receive full compensation for [thatsueh](#) period. Full compensation shall mean compensation the suspended or discharged employee would have earned in the position during the period of suspension or discharge less amounts earned by the employee from any other source and any unemployment compensation payments received during [thatsueh](#) period.
- [ij](#)) Suspension/Discharge Resulting from Arrest or Criminal Indictment
- 1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. The facts in support of either an arrest or criminal indictment may be grounds for suspension or discharge if they meet one or more of the following criteria:
    - A) resulted from an employee's conduct in the course of employment duties, including a failure to perform [thosesueh](#) duties; or
    - B) occurred on or proximate to State premises and as a result of the employee's conduct thereon; or
    - C) raises reasonable doubt concerning the employee's suitability for continued State employment in the present assignment or position.
  - 2) The Auditor General may, under the circumstances set forth above, suspend an employee, without pay, pending a final court determination of innocence or guilt.
  - 3) The following shall control the suspension pending judicial verdict:
    - A) An affected employee may be in jail, free on bond or in some other similar status at the time the suspension is imposed.
    - B) The arrest or indictment of an employee shall be cause for State or Federal criminal or civil charges, or charges brought in a foreign country, which raise reasonable doubt concerning the employee's suitability for continued employment in the current position. Traffic violations are not sufficient cause for suspension except where the employee temporarily loses driving privileges if the

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license is a requirement for work as contained in the job description or position classification.

- C) Any proposed suspension pending judicial verdict requires approval by the Auditor General or his designee and will include a complete and detailed statement of the reason(s) for the suspension and a copy of any official document, such as charges, indictment or arrest record, which supports the suspension.
- D) The suspension shall have no designated expiration date, depending on the length of the initial judicial process. The suspension ends with the return of the employee to work, discharge or termination of employment. This suspension will not be continued while the employee appeals an initial guilty verdict through higher courts.
- E) An approved suspension pending judicial verdict will be served on the employee in person or by certified mail, return receipt requested, to the employee's last address appearing in the personnel file. It will be the responsibility of the employee to notify the agency of any change of address.
- F) Upon a finding of not guilty or the dismissal of the charges for any reason, the employee, upon application, will be restored to the same or similar position in the agency and work location held at the time the suspension was issued.
- G) The employee may or may not be entitled to back pay depending upon the circumstances surrounding a finding of not guilty or a dismissal of the charges. The Auditor General shall make a final determination with respect to whether back pay shall be granted.
- H) If any officer or government employee is placed on leave, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution and that officer or employee is removed from office or employment due to his or her resultant criminal conviction, then the officer or employee is indebted to the State for all compensation and the value of all benefits received

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during the leave and must forthwith pay the full amount to the State.

- 2) ~~If an employee is not subject to suspension or discharge under this subsection (j), the Auditor General may, depending upon the needs of the Office, at the request of the employee place such employee on indefinite leave status, without pay, pending a final court determination of innocence or guilt.~~

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.670 Grievance Procedure**

- a) Grievance: Any certified employee, unless otherwise excepted by this Subpart, may grieve as to the application of this Subpart or any policy arising hereunder as to the impact of ~~that~~ application upon his or her employment condition or his or her status.
- b) Grievance Procedure – Limitation: The rules of the Office and the official policy arising thereunder are not grievable matters. The following are not subject to the grievance process: the discipline, demotion or discharge of Executive Employees and probationary employees who have not obtained certified status in the Office; the demotion of a certified employee from a position in which he or she is serving a probationary period; layoff; the appointment, removal or reinstatement to State Auditor status; and intra-agency transfers.
- c) Grievance Procedure – Abandonment – Extension:
- 1) Failure of either party to comply with the form or time requirements of the grievance procedure shall resolve the matter in favor of the other. The parties may mutually extend the time limits in writing at any level of the procedure. However, whenever the last day of a specified time requirement falls on a day on which the Office is closed for regular business, that time requirement shall automatically be extended to the next day on which the Office is open for regular business.
  - 2) An employee's failure to submit a grievance, or to submit or appeal it to the next level of this procedure within specified time limits, shall mean that the employee has withdrawn the grievance or, if the employee so

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indicates, accepted the last answer given in the grievance procedure.

- d) Grievance Procedure – Steps of:
- 1) Step 1: A grievant shall present the grievance orally to the immediate supervisor explaining its nature and circumstances within five (5) working days after learning of the circumstances or conditions which gave rise to it. ~~The immediate supervisor shall answer to the employee in person within five (5) working days of its presentation. If the grievant's immediate supervisor is a Director, the provisions of this Step 1 shall be inapplicable and the grievant shall proceed to Step 2. The immediate supervisor shall respond to the employee in person within ten (10) working days of receipt of the grievance. The immediate supervisor shall advise the grievant to initiate his or her grievance at Step 2 if:~~
    - A) The immediate supervisor is without authority to rectify the problem; or
    - B) The grievance is based on an action or omission of a Director.

If the grievant's immediate supervisor is a Director, the provisions of this Step 1 shall not apply and the grievant shall initiate his or her complaint at Step 2.
  - 2) Step 2: If the grievance is not satisfactorily resolved ~~at Step 1 or no answer is given within five (5) working days of its presentation,~~ or if the provisions of Step 1 are inapplicable, the grievant may, within five (5) working ten (10) calendar days after notification of the supervisor's decision in Step 1 the Step 1 answer was due, or, if Step 1 is inapplicable, within five (5) working ten (10) calendar days after learning of the circumstances or conditions giving rise to the grievance, submit the grievance to the appropriate Director in writing. Within ten (10) five (5) working days after a Step 2 appeal is filed, the Director shall issue a written decision and serve a copy of the decision in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file upon the grievant.
  - 3) Step 3: If the grievance is not satisfactorily resolved or no answer is given within the time limit set forth in Step 2, the grievant may submit to the

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Auditor General, within ten (10) ~~working calendar~~ days from the date the Director's decision was due or received, whichever is earlier, to the Auditor General a written request for a grievance hearing, along with the grievant's specific reasons for disagreeing with the Director's decision in Step 2. Within twenty (20) working days after this Step 3 appeal is filed, the Auditor General may either render a written decision on the matter, which shall be final and binding upon the parties, or establish a Grievance Review Committee as provided in subsection (e), below. copy of the written statement of grievance submitted in Step 2, along with a request for a grievance hearing.

## e) Grievance Review Committee:

- 1) The Auditor General shall designate a Deputy Auditor General or executive employee to chair the Grievance Review Committee. The Chair, no later than five (5) working days following receipt of an employee's request for a grievance hearing, shall appoint a Grievance Review Committee. The Committee shall consist of no less than three nor more than five members. Committee members must have experience or knowledge in the areas of personnel administration and employee relations or experience or knowledge in matters pertaining to the general subject matter presented in the grievance. The Director and the immediate supervisor of the grievant shall not be appointed to the Committee.
- 2) Immediately upon appointment of the Committee, the Chair shall set a date for hearing which shall be no later than twenty (20) working days after receipt of the employee's request for a grievance hearing. The grievant shall promptly be notified in person or by certified mail, return receipt requested, of the time, date and place of the hearing.
- 3) The grievant and others who have knowledge of the facts shall have an opportunity to present evidence in person or by written statement, after which the Committee will meet privately to reach a recommendation. The Chair may require that testimony be given under oath or by sworn affidavit.
- 4) The members of the Committee shall reduce their recommendations as to the disposition of the grievance to writing and submit them to the Auditor General within five (5) working days following the hearing. A dissenting

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member of the Committee may make separate recommendations. All recommendations will bear the signatures of the concurring committee members. Upon receipt of the recommendations from a grievance committee, the Auditor General shall approve, disapprove or modify the Committee recommendations, shall render a decision thereon in writing, and cause a copy of ~~the~~such decision to be served upon the parties. The Auditor General's decision shall be final and binding upon the parties.

- 5) The written statement of the employee's grievance, the recommendations of the grievance committee, and the decision of the Auditor General thereon shall be made a part of the grievant's personnel file.
- 6) The Auditor General ~~for good cause~~ may extend any deadline set forth above if either party demonstrates good cause.
- f) Representation: The grievant is entitled to be present and may be accompanied or represented by a person~~by a representative~~ of his or her choice at any stage of the grievance process~~the hearing~~. Only ~~such~~ other persons as the Chair deems advisable shall be entitled to attend the hearing.
- g) Witnesses and Evidence: The parties to a grievance may introduce materials, documents and witnesses as are necessary to resolve the problem. Should a dispute arise as to the necessity of certain appearances or of the reproduction of certain documents, the Office's Legal Counsel shall resolve the dispute.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.674 Sick Leave**

- a) Accrual: Full-time employees shall earn sick leave at the rate of one (1) day for each month's service. Employees who work less than nineteen (19) hours per week do not earn sick leave. Permanent part-time employees shall earn sick leave on a prorated basis determined by a fraction the numerator of which shall be the hours worked by the employee and the denominator of which shall be normal working hours in the year required by the position. No employee shall accrue sick leave while remaining on the payroll to collect accrued vacation prior to the effective date of his or her termination.
- b) Use: Sick leave may be used in one-half (½) hour increments for illness,

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disability, or injury of the employee, appointments with doctors, dentists, or other professional medical practitioners, and also may be used in the event of serious illness, disability, injury or death of an immediate family member of the employee. Documentation to substantiate that leave days were used for the purposes stated may be required. Beginning with calendar year 2005, in the event an employee does not use sick leave in any calendar year, the employee shall be awarded one (1) additional personal day on January 1 of the next calendar year. A permanent part-time employee who works at least 19 hours per week shall be awarded pro-rated additional personal leave on January 1 when the employee has not used sick leave during the previous calendar year. A calendar year for purposes of this provision is the period beginning January 1 and ending December 31 of each year. ~~AnySuch~~ additional personal leave shall be used in accordance with Section 600.682 of this Part.

- c) Accumulation: Employees shall be allowed to carry over any unused sick leave allowed under subsection (a), above, from year to year of continuous service.
- d) Payment in Lieu of Sick Leave:
  - 1) Upon termination of employment for any reason, or upon indeterminate layoff, an employee or the employee's estate is entitled to be paid for unused sick leave which has accrued on or after January 1, 1984 and prior to January 1, 1998, provided the employee is not employed in another position in State service within four (4) calendar days of ~~his or hersueh~~ termination.
  - 2) For purposes of this subsection (d), sick leave is deemed to be used by an employee within the following priority order:
    - A) Sick leave earned through December 31, 1983.
    - B) Sick leave earned on or after January 1, 1998.
    - C) Sick leave earned on or after January 1, 1984 and prior to January 1, 1998.

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

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

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.678 Vacation Leave**

- a) Accrual:
  - 1) Full-time employees shall earn vacation leave, accrued monthly on a pro-rated basis, in accordance with the following schedule:
    - A) From the date of hire until the completion of five (5) years of continuous service: ten (10) days annually.

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- B) From the completion of five (5) years of continuous service until the completion of nine (9) years of continuous service: fifteen (15) days annually.
  - C) From the completion of nine (9) years of continuous service until the completion of fourteen (14) years of continuous service: seventeen (17) days annually.
  - D) From the completion of fourteen (14) years of continuous service until the completion of nineteen (19) years of continuous service: twenty (20) days annually.
  - E) From the completion of nineteen (19) years of continuous service until the completion of twenty-five (25) years of continuous service: twenty-two (22) days annually.
  - F) From the completion of twenty-five (25) years of continuous service: Twenty-five (25) days annually.
- 2) No employee shall accrue vacation leave while remaining on the payroll to collect accrued vacation prior to the effective date of his or her termination.
  - 3) Employees who work less than nineteen (19) hours per week do not earn vacation leave. Permanent part-time employees shall earn vacation in accordance with the schedule set forth in subsection (a)(1) above on a prorated basis determined by a fraction the numerator of which shall be the hours worked by the employee and the denominator of which shall be normal working hours in the year required by the position.
- b) Use: Vacation leave may be used in one-half ( $\frac{1}{2}$ ) hour increments. Employees may use vacation leave only upon the approval of a Director or his or her designee or, if the employee is a Director, upon the approval of the Auditor General [or his designee](#). No employee may approve his or her own request for vacation leave.
  - c) Continuous Service: Computation of vacation leave of State employees who have interrupted continuous State service shall be determined as though all previous

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State service which qualified for earning of vacation benefits is continuous with present service.

- d) Accumulation: An employee who is employed by the Office on or prior to the effective date of this Part (May 1, 1994) shall be allowed to carry over accumulated vacation leave from year to year provided that ~~thesueh~~ accumulation does not exceed seventy-five (75) days carry over in any calendar year. Calculation of time will be made on December 31 of each year and, if the employee's total vacation leave exceeds seventy-five (75) days at that time, only seventy-five (75) days will be carried into the next year. An employee who is employed by the Office after the effective date of this Part shall not be allowed to accumulate vacation time for more than twenty-four (24) months after the end of the calendar year in which it is earned. If ~~thatsueh an~~ employee does not request and take accrued vacation within ~~thesueh~~ 24 month period, vacation earned during ~~thatsueh~~ calendar year shall be lost.
- e) Payout: ~~Upon termination of employment by means of resignation, retirement, indeterminate layoff, or discharge, provided the employee is not employed in another position in state service within four (4) calendar days of his or her termination, an employee is entitled to be paid for any vacation earned but not taken or forfeited, up to a maximum of 75 days. No other payment in lieu of vacation shall be made except as provided by subsection (f), below. Upon leaving employment with the Office, an employee, at his or her option: 1) may be paid in a lump sum for accrued and unused vacation days up to a maximum of 75 days; or 2) may remain on the payroll for the period of time equal to accrued and unused vacation days up to a maximum of 75 days. However, if during this period, the employee is placed on another State payroll, he or she shall be removed from the Office's payroll. In that event, the employee may receive a lump sum payment for, or transfer to his or her account with the new employer, the remaining balance of his or her maximum accrued vacation days less any vacation days used under this paragraph.~~ This payment shall not be deemed to extend the effective date of termination by the number of days represented by ~~thesaid~~ payment. Payment shall be computed by multiplying the number of days (hours) of accumulated vacation by the employee's daily (hourly) rate. Payment shall not be allowed if the purpose of the separation from employment and any subsequent reemployment is for the purpose of obtaining ~~thatsueh~~ payment. The accrued leave amount shall be certified in writing to the employee and may be held by the employee or forwarded to the Retirement System.

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- f) Upon the death of a State employee, the person or persons specified in Section 14a of the State Finance Act [30 ILCS 105/14a] shall be entitled to receive from the appropriation for personal services ~~theretofore~~ available for payment of the employee's compensation ~~asuch~~ sum for any accrued vacation period to which the employee was entitled at the time of death. ~~TheSuch~~ sum shall be computed by multiplying the employee's daily ~~or hourly~~ rate by the number of days ~~or hours~~ of accrued vacation due.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.680 Repayment of Benefit Time**

An employee who returns to employment in any capacity at the Office within 30 days after termination of previous employment must, as a condition of employment, repay any lump sum amount paid for accrued vacation, overtime and sick leave within 30 days after employment commences. The amount repaid shall be deposited into the fund from which the payment was made or the General Revenue Fund. Upon repayment, the leave time shall be credited to the account of the employee.

(Source: Added at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.682 Leave for Personal Business**

- a) Accrual: Full-time employees shall be permitted twenty-one (21) hours of leave for personal business each calendar year with pay. Full-time employees who enter service with the Office during any calendar year shall be given credit for ~~personalsuch~~ leave at the rate of three and one-half (3½) hours for each two (2) months of service for the calendar year in which hired. Permanent part-time employees working nineteen (19) or more hours per week shall earn personal business leave on a pro-rated basis determined by a fraction the numerator of which shall be the hours worked by the employee and the denominator of which shall be normal working hours in the year required by the position. Beginning with calendar year 2005, in the event an employee does not use sick leave in any calendar year, the employee shall be awarded one (1) additional personal day on January 1 of the next calendar year. A permanent part-time employee who works at least 19 hours per week shall be awarded pro-rated additional personal leave on January 1 when the employee has not used sick leave during the previous calendar year. A calendar year for purposes of this provision is the period beginning January 1 and ending December 31 of each year.

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- b) Personal business leave may be used for occurrences or observance of religious holidays, absence due to severe weather conditions, or for other similar personal reasons but shall not be used to extend a holiday, vacation or other leave without prior written approval. Personal business leave may be used by employees in half-hour increments. Except for those emergency situations which preclude the making of prior arrangements, personal business leave shall be scheduled sufficiently in advance to be consistent with the Office's operating needs.
- c) Carry Over: Personal business leave shall not accumulate or carry over from year to year. If the services of an employee in State service are terminated by reason of his or her retirement, disability or death, the employee, or the employee's estate, as the case may be, shall be paid a lump sum, for the number of days for leave for personal business which the employee had accumulated but not used as of the date the employee's services were terminated, in an amount equal to  $\frac{1}{2}$  of the employee's pay per working day times the number of ~~personalsuch~~ leave days so accumulated and not used. The accrued leave amount paid under this subsection shall be certified in writing to the employee by the Office. This certification shall be held by the employee or forwarded to the Retirement System.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

**Section 600.686 Leaves of Absence**

- a) Types:
- 1) DisabilityIllness: An employee who has expended his or her accumulated sick leave may be granted a leave without pay, provided that he or she may be required to submit a statement from an appropriate health care provider setting forth the reasons for the employee's inability to work. The leave may continue for an appropriate period approved by the Auditor General, provided that an appropriate health care provider's statement, if required, is submitted within the first ten (10) days of each month during the leave. An employee's disability leave shall terminate when the employee is no longer temporarily disabled from performing his or her regularly assigned duties. The State will continue to pay the premiums for the basic (State-paid) health and life insurances for an employee on illness leave until expiration of authorized leave and return to active service, but not to exceed twenty-four (24) months.

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- 2) On the Job Injury and Service Connected Disease: An employee who suffers an on-the-job injury or contracts a service-connected disease shall be allowed full pay during the first five (5) working days of absence without utilization of any accumulated sick leave or other benefits. A worker's compensation file must be created in order to authorize service connected leave, and medical documentation verifying the need for time off from work shall be required. Thereafter, the employee shall be permitted to utilize accumulated sick leave or other benefits for additional time away from work unless the employee has applied for and been granted temporary total disability benefits in lieu of salary or wages pursuant to provisions of the Workers' Compensation Act [820 ILCS 305] or through the State's self-insurance program. In the event the service-connected illness or on-the-job injury becomes the subject of payment of benefits provided in the Workers' Compensation Act by the Illinois Workers' Compensation Industrial Commission, the courts, the State self-insurance program or other appropriate authority, the employee shall restore to the State the dollar equivalent which duplicates payments received as sick leave or other accumulated benefit time, and the employee's benefit accounts shall be credited with leave time equivalents. Employees whose compensable service connected injury or illness requires appointments with a doctor, dentist, or other professional medical practitioner shall, with supervisor approval, be allowed to go to thosesueh appointments without loss of pay and without utilization of sick leave.
- 3) Family and Medical Leave
- A) Eligibility: Employees who have been employed by the Office for at least twelve (12) months and have worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA leave are entitled to up to twelve (12) workweeks leave in any twelve (12) month period for one or more of the following:
- i) because of the birth of a son or daughter of the employee and in order to care for thesueh son or daughter;
  - ii) because of the placement of a son or daughter with the employee for adoption or foster care;

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- iii) to care for the spouse, or a son, daughter, or parent, of the employee, if ~~the~~ spouse, son, daughter or parent has a serious health condition;
- iv) because of a serious health condition that makes the employee unable to perform his or her job functions;~~the function of the position of such employee.~~
- v) because of any qualifying exigency arising out of the fact that an employee's spouse, child or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation as provided under the National Defense Authorization Act for FY 2008 (P.L. 110-181) and implementing regulations.

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

- B) Use: The entitlement to leave under subsection (a)(3)(A)(i) and (ii), above, expires at the end of the twelve (12) month period beginning on the date of the birth or placement of the son or daughter. The leave granted under subsection (a)(3)(A)(iii), (iv) and (v)~~and (iv)~~, above, may be taken intermittently when medically necessary and when scheduled so as to not unduly disrupt the Office's operations.
- C) Benefits: Family and Medical Leave shall be unpaid. Accrued sick and vacation leave may be applied to the above periods of absence at the employee's option. The State will continue to pay the premiums for the basic (State-paid) health and life insurances for an employee on family and medical leave.
- D) Restoration: Employees who take leave under this subsection (a)(3) shall be returned to the same or equivalent position with equivalent benefits, pay and other terms and conditions of

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employment as held by the employee when the leave commenced.

- E) Optional Extension: Family and Medical Leave may be extended up to a total of six months at the discretion of the Auditor General.
- F) Military Caregiver Extended Leave: Employees otherwise meeting eligibility requirements for Family and Medical Leave who are caring for a member of the Armed Forces who is on the temporary disability retired list or is receiving medical treatment, recuperation or therapy due to a serious injury or illness sustained in the line of duty may be eligible for up to a total of 26 weeks of Family and Medical Leave (inclusive of all types of Family and Medical Leave taken by the employee) during a single 12-month period, as provided under the National Defense Authorization Act for FY 2008 (P.L. 110-181). Spouses employed by the Office may be limited to a combined total of 26 workweeks of Family and Medical Leave during a single 12-month period. Eligible employees must be the spouse, child, parent or next of kin of the person requiring care and otherwise comply with notice and certification requirements.
- ~~GF~~) Notice and Certification: An employee shall provide the Office with not less than 30 days' notice of the employee's intent to take Family and Medical Leave, or ~~such~~ other notice as is practical under the circumstances. Documentation supporting the reasons for taking a leave may be required. The Office may obtain a second opinion from a health care provider of its choosing. Authorization from an appropriate health care provider to return to work may be required.
- ~~HG~~) The terms and conditions of Family and Medical Leave shall be governed by the federal Family and Medical Leave Act of 1993, as amended, and implementing regulations.
- ~~IH~~) In determining whether a veteran meets the FMLA eligibility requirement, the months employed and the hours that were actually worked for the Office will be combined with the months and hours that would have been worked during the twelve months prior to the start of the leave requested but for the military service.

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- 4) Administrative Leave: The Auditor General may grant administrative leaves of absence to employees for purposes deemed appropriate. The Auditor General shall determine the duration of the leave and whether the leave shall be with or without pay, full or partial, and with or without State-paid benefits.
- 5) Excused Absence: An employee may be granted an excused absence with pay upon the approval of the Auditor General or the Director to whom the employee reports.
- 6) Military, Job Corps and Peace Corps Leaves: Leaves of absence shall be allowed employees who enter military service, the Peace Corps or the Job Corps as provided below and as may be required by law.
  - A) Military Service Leave: Leave of absence without pay shall be granted to all employees who leave their positions and enter military service for five (5)~~four (4)~~ years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or a similar position on making application to the Auditor General within ninety (90) days after separation from active duty or from hospitalization or convalescence continuing after discharge for not more than two years~~one (1) year~~. The employee must provide evidence of satisfactory completion of training and military service when making application for reinstatement and be qualified to perform the duties of the position. Continuous service and reemployment rights for veterans subject to federal law shall be as provided in the Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4333).
  - B) Military Reserve Training Leave: Any full-time employee of the State of Illinois, ~~other than an independent contractor,~~ who is a member of any reserve component of the United States Armed Services, the Illinois National Guard or the Illinois Naval Militia~~Forces or of any reserve component of the Illinois State Militia,~~ shall be allowed annual leave with pay for one full pay period and any additions or extensions to fulfill the military reserve obligation. These leaves will be granted without loss of seniority

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~~or other accrued benefits granted leave from State employment for any period actively spent in such military services, including:~~

- ~~i) basic training;~~
- ~~ii) special or advanced training, whether or not within the State and whether or not voluntary; and~~
- ~~iii) annual training. During such leaves, the employee's seniority and other benefits shall continue to accrue.~~

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

- C) ~~State Active Duty/Emergency Call Up: In the case of an emergency call-up (or order to State active duty) by the Governor, the leave shall be granted for the duration of the emergency with pay and without loss of seniority or other accrued benefit. Military earnings for the emergency call-up paid under the Military Code of Illinois [20 ILCS 1805] must be submitted and assigned to the Office, and the Office shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the Office shall return the difference to the employee. Any member of the National Guard employed by the Office whose absence from a position of employment is necessitated by reason of being called to State Active Duty, whether or not voluntary, shall be entitled to reemployment rights and benefits and other employment benefits as provided under the Illinois National Guard Employment Rights Law [20 ILCS 1805/Art. V-A] or any other applicable State law, regulation or policy. Except as otherwise provided by law, a member entitled to reemployment upon completion of a period of State Active Duty shall be promptly reemployed in the position of~~

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~~employment which he or she left with the same increases in status, seniority and wages that were earned during his or her period of State Active Duty by employees in like positions who were on the job at the time the returning member entered State Active Duty, or to a position of like seniority, status and pay, unless the Office's circumstances have so changed as to make it impossible or unreasonable to do so. Any member of the National Guard who is reemployed or seeks reemployment to a position of employment under this subsection (a)(6)(C) shall be considered as having been on furlough or leave of absence during his or her State Active Duty and shall be reemployed without loss of seniority and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect at the time the member entered State Active Duty.~~

- D) ~~Active Duty Pay: Any full-time employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be granted leave from State employment for any period actively spent in military service, including basic training and special or advanced training, whether or not within the State, and whether or not voluntary. Any full-time employee of the State of Illinois, other than an independent contractor, who is a member of the Illinois National Guard or a reserve component of the United States Armed Forces or the Illinois State Militia and who is mobilized to active duty shall continue during the period of active duty to receive his or her benefits and regular compensation as a State employee, minus an amount equal to his or her military active duty base pay. The terms and conditions of active duty leave shall be as determined by the Department of Central Management Services and the State Comptroller. Employees on active duty leave retain all rights to employment benefits, including insurance.~~
- E) Certification of Leave: To be eligible for military reserve leave or emergency call-up pay, the employee must provide certification from the commanding officer of his or her unit that the leave taken was for one of these purposes~~either such purpose.~~

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- F) Military Pay: During basic training and up to 60 days of special or advanced training, if the employee's compensation for military activities is less than his/her compensation as a State employee, he/she shall receive his/her regular compensation as a State employee minus the amount of his/her base pay for military activities. During the training, the employee's seniority and other benefits shall continue to accrue.
- GF) Leave for Military Physical Examinations: Any employee drafted into military service shall be allowed up to three (3) days leave with pay to take a physical examination required by ~~thesueh~~ draft. Upon request, the employee must provide the Office with certification by a responsible authority that the period of leave was actually used for ~~thisueh~~ purpose.
- HG) Peace Corps or Job Corps Enrollees Continuous Service: Any employee who volunteers and is accepted for service in the overseas or domestic Peace Corps or Job Corps shall be given a leave of absence from his or her State employment for the duration of his or her initial period of service. The employee shall be restored to the same or similar position provided that the employee returns to his or her employment within ninety (90) days of the termination of his or her service or release from hospitalization for a Peace Corps or Job Corps service-connected disability.
- IH) Veterans Hospital Leave: An employee who is also a veteran shall be permitted ~~four (4)two (2)~~ days with pay per year to visit a veterans hospital or clinic for examination of a military service-connected disability. The ~~four (4)two (2)~~ days shall not be charged against any sick leave currently available to the employee.
- 7) Disaster Service Volunteer Leave: Any employee who is a certified disaster service volunteer of the American Red Cross or volunteers for assignmentassigned to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Agency Act [20 ILCS 3305] or; the Emergency Management Assistance Compact Act [45 ILCS 151]; or other applicable administrative rules may be granted leave ~~from work~~ with pay for up tonot more than twenty (20) working days in any twelve (12) month period for disasters within the United States or its

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~~territories. The leave may be granted upon the request of the American Red Cross or the Illinois Emergency Management Agency for employees to participate in specialized disaster relief services for the American Red Cross or for the Illinois Emergency Management Agency, as the case may be, upon the request of the American Red Cross or the Illinois Emergency Management Agency for the services of that employee and upon the Office's approval. Leaves under this subsection are subject to approval by the Auditor General considering operating needs. Disasters must be disasters designated at a Level III and above in the American National Red Cross Regulations and Procedures [5 ILCS 335/2]. The American Red Cross and the Illinois Emergency Management Agency shall coordinate requests for services outside of Illinois through the Illinois State Emergency Operations Center. The employee shall be granted disaster service volunteer leave without loss of seniority, pay, vacation time or any other employee benefit.~~

- 8) Attendance in Court: Any employee called for jury duty, or subpoenaed by any legislative, judicial, or administrative tribunal ~~for matters related to his or her employment,~~ shall be allowed time away from work with pay ~~as necessary to fulfill the jury service requirement or comply with the subpoena for such purposes.~~ Upon receiving the sum paid for jury service or witness fee, the employee shall submit the warrant, or its equivalent, to the Office to be returned to the fund in the State Treasury from which the original payroll warrant was drawn; provided, however, an employee may elect to fulfill ~~thesuch~~ call or subpoena on accrued time off and retain the full amount received for ~~thesuch~~ service.
- 9) Maternity/Paternity and Adoption Leave:
- A) ~~All employees who provide proof of their pregnancy or that of their female partner within 30 days of the expected due date. All female employees who show proof that they have received prenatal care in the first twenty (20) weeks~~ will be eligible for four (4) weeks (20 work days) ~~of~~ paid maternity/~~paternity~~ leave. ~~For pregnancies occurring on or after the effective date of this amendment, such proof shall be provided to the Office no later than the twenty-fourth (24<sup>th</sup>) week of pregnancy. All male employees who show proof that their spouses have received prenatal care in the first twenty (20) weeks, with notification to the~~

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~~Office within twenty-four (24) weeks if the pregnancy occurred on or after the effective date of this amendment, will be eligible for three (3) weeks (15 work days) of paid paternity leave.~~ The Office may require proof of the birth ~~and marriage for a non-covered spouse~~. Maternity and/or paternity leave shall be limited to one (1) leave per family for each pregnancy resulting in birth or multiple births. In addition, non-married male employees may be required to provide proof of paternity such as a birth certificate or other appropriate documentation confirming paternity. Leaves under this subsection shall also be granted in cases of a full-term still born child.

- B) All employees are eligible for four (4)~~three (3)~~ weeks (2015 work days) of paid leave with a new adoption, with the leave to commence when physical custody of the child or children has been granted to the employee, provided that the employee can show that the formal adoption process is underway. The Office must be notified, and the employee must submit proof that the adoption has been initiated. Adoption leave shall be limited to one leave per adoption family per year.
- C) Permanent part-time employees working nineteen (19) or more hours per week shall be eligible for paid maternity/paternity and adoption leave on a pro-rated basis determined by a fraction the numerator of which shall be the hours worked by the employee and denominator of which shall be normal working hours in the year required by the position.
- 10) Educational Leave: The Auditor General may grant an employee an educational leave of absence for the purpose of engaging in a training course. No educational leave may be granted unless in the Auditor General's judgment the training course would benefit the Office by improving the employee's qualifications to perform the duties of the employee's position or by qualifying the employee for advancement to another position in State service. During a period of educational leave, State-paid health benefits and life insurance benefits shall continue as provided under Section 10(c) of the State Group Insurance Act [5 ILCS 375/10(c)].

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- 11) Organ Donor/Blood Donor Leave: Upon request and approval by the Office, an employee may be entitled to [time off with pay for the purpose of donating an organ, bone marrow, blood or blood platelets](#)~~organ donor and/or blood donor leave with pay as follows:~~
- A) up to 30 days of organ donation leave in any 12-month period to serve as a bone marrow or organ donor. Medical documentation of the proposed organ or bone marrow donation shall be required before leave is approved;
  - B) up to one hour [or more](#) to donate blood every 56 days. Medical documentation to substantiate the use of leave time for this purpose may be required;
  - C) up to two hours [or more](#) to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.

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

- 12) Leave due to Domestic or Sexual Violence: An employee who is a victim of domestic or sexual violence or who has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence may be entitled to take up to 12 work weeks of unpaid leave during any 12-month period for the purposes and under the terms and conditions provided in the Victims' Economic Security and Safety Act [820 ILCS 180] and implementing regulations (56 Ill. Adm. Code 280).
- 13) School Visitation Leave: Employees may take up to a total of 8 hours during any school year, no more than 4 hours of which may be taken on any given day, to attend school conferences or classroom activities related to the employee's child if the conference or classroom activities cannot be scheduled during nonwork hours. No leave may be taken unless the

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employee has exhausted all accrued vacation leave, personal leave and any other leave that may be granted to the employee except sick leave and disability leave. The employee must provide the Office with a written request for leave at least 7 days in advance of the time the employee is required to utilize the visitation right. In emergency situations, no more than 24 hours notice shall be required. The employee must consult with the Office to schedule the leave so as not to disrupt unduly the Office's operations.

- 14) Volunteer Emergency Worker Leave: An employee who is a volunteer emergency worker as that term is defined in the Volunteer Emergency Worker Job Protection Act [50 ILCS 748] shall be given time off from work without pay for the purpose of responding to an emergency. An employee missing work for this purpose shall make a reasonable effort to notify the Office that he or she may be absent or late and shall also present the Office with a written statement from the supervisor or acting supervisor of the volunteer fire department or governmental entity that the volunteer emergency worker serves stating that the employee responded to an emergency and stating the time and date of the emergency.
- 15) Family Military Leave Act:
  - A) A qualifying employee who is the spouse or parent of a person called to military service lasting longer than 30 days with the State or United States pursuant to the orders of the Governor or the President of the United States shall be granted up to 30 days of unpaid family military leave during the time federal or State deployment orders are in effect. Family Military Leave may not be used unless the employee has first exhausted all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the employee, except sick leave and disability leave.
  - B) To qualify for Family Military Leave, an employee must have been employed by the Office for at least 12 months and have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

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- C) The employee shall give at least 14 days notice of the intended date upon which the family military leave will commence if leave will consist of 5 or more consecutive work days. Employees taking military family leave for less than 5 consecutive days shall give advance notice as is practicable. Where able, the employee shall consult with the Office to schedule the leave so as to not unduly disrupt Office operations.
- D) The Office may require certification from the proper military authority to verify the employee's eligibility for the family military leave requested.
- E) Upon expiration of the leave, the employee shall be restored to the position held by the employee when the leave commenced or to a similar position with equivalent seniority status, benefits, pay and other terms and conditions of employment, unless the employee's failure to be restored to the position is due to conditions unrelated to his or her exercise of these leave rights.
- F) During any family military leave, the Office shall make it possible for employees to continue their benefits at the employee's expense. At its option, these benefits may be continued at the Office's expense.
- 16) Civil Air Patrol Leave:
- A) A qualifying employee shall be granted up to 30 days of unpaid leave to perform a civil air patrol mission. An employee need not have exhausted other forms of accrued leave time prior to being eligible for Civil Air Patrol Leave.
- B) To qualify for Civil Air Patrol Leave, an employee must have been employed by the Office for at least 12 months and have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- C) The employee shall give at least 14 days notice of the intended date upon which the leave will commence if leave will consist of 5 or more consecutive work days. Employees taking leave for less

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than 5 consecutive days shall give advance notice as is practicable. Where able, the employee shall consult with the Office to schedule the leave so as to not unduly disrupt Office operations.

D) The Office may require certification from the proper civil air patrol authority to verify the employee's eligibility for the leave requested.

E) Upon expiration of the leave, the employee shall be restored to the position held by the employee when the leave commenced or to a similar position with equivalent seniority status, benefits, pay and other terms and conditions of employment, unless the employee's failure to be restored to the position is due to conditions unrelated to his or her exercise of these leave rights.

F) During any civil air patrol leave, the Office shall make it possible for employees to continue their benefits at the employee's expense. At its option, these benefits may be continued at the Office's expense.

- b) Employee Rights After Leave: When an employee returns from a leave of absence of six (6) months or less, the Office shall return the employee to the same or similar position in which the employee was incumbent prior to the commencement of ~~thesueh~~ leave provided that all requirements for substantiation of use of leave or physical fitness have been furnished and that application for reassignment is made within the specified time limit of the leave. When an employee returns from a leave of absence exceeding six (6) months in duration, other than a leave of absence granted under subsection (a)(2) or (a)(6), above, and there is no vacant position in the same position classification in which the employee was incumbent prior to the commencement of ~~thesueh~~ leave, the employee may be laid off. An employee returning from a leave of absence under subsection (a)(2) or (a)(6), above, shall be returned to the same or similar position in which the employee was incumbent prior to the commencement of ~~thesueh~~ leave provided that all requirements for substantiation of use of leave or physical fitness have been furnished, that application for reassignment is made within the specified time limits of the leave, and that the Office's circumstances have not changed so as to make reassignment impossible or unreasonable.
- c) Failure to Return: Failure to return from leave within five (5) days after the

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expiration date may be cause for discharge. Leave shall automatically terminate upon the employee's securing other employment during the leave period.

- d) **Accrual and Retention of Continuous Service During Certain Leaves:** During the following leaves, an employee shall retain and accrue continuous service, provided appropriate application and return is made as required by this Section: family and medical leave; educational leave; administrative leave; military leaves; Peace Corps or Job Corps leave; disaster service volunteer leave; or service-connected disability leave.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)

## DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.120                      Adopted Action:  
Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) Effective Date of Amendment: January 13, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 14927; September 19, 2008
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.2145	Amendment	32 Ill. Reg. 15763; September 26, 2008
130.325	Amendment	32 Ill. Reg. 16057; October 3, 2008
130.331	Amendment	32 Ill. Reg. 16057; October 3, 2008
130.605	Amendment	32 Ill. Reg. 17654; November 14, 2008

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- 15) Summary and Purpose of Amendment: Section 130.120 is being amended to add sunset dates for the following exemptions:

(1) graphic arts machinery and equipment; (2) jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone; (3) motor vehicles donated to schools; and (4) food for human consumption that is to be consumed off the premises where it is sold.

It is also being amended to add the following exemptions: (1) fly-away aircraft that is purchased in this State, temporarily located in this State for the purpose of a prepurchase evaluation, and temporarily located in this State for the purpose of a post-sale customization, which was created by Public Act 95-305, effective August 20, 2007; (2) tangible personal property sold to a public-facilities corporation, which was created by Public Act 95-0672, effective October 11, 2007; and (3) tangible personal property used in the construction or maintenance of certain community water supplies, which was created by Public Act 95-707, effective January 11, 2008.

Finally, Section 130.120 is being amended to remove the sunset date for certain horses used for purposes of breeding or racing for prizes, and to change a cross reference section concerning the drive-away permit.

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

Debra M. Boggess  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794

217/782-2844

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

## DEPARTMENT OF REVENUE

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

## SUBPART A: NATURE OF TAX

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

## SUBPART B: SALE AT RETAIL

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

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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

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	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

## SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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## SUBPART I: PENALTIES AND INTEREST

## Section

- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

## SUBPART J: BINDING OPINIONS

## Section

- 130.1001 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

## Section

- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

## Section

- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

## Section

- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

## SUBPART N: SALES FOR RESALE

## Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for  
Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

## Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

## Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

## Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

## Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

## Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

## SUBPART T: DIRECT PAYMENT PROGRAM

## Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009.

## SUBPART A: NATURE OF TAX

**Section 130.120 Nontaxable Transactions**

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);

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- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) that are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) that are made to any governmental body (see Section 130.2080 of this Part);
- j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)]* (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) except as otherwise provided in Section [130.605\(b\)\(1\)\(C\)](#)~~130.605(b)(1)(A)~~, of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);

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- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser* [35 ILCS 120/2-5(16)].
  - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
  - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;

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- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);*
- u) *through June 30, 2003, of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];*
- v) *through June 30, 2003, and beginning again on September 1, 2004 [through July 29, 2009](#), of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);*
- w) *through August 31, 2007, and beginning again on January 11, 2008, a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];*
- x) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);*
- y) *through June 30, 2003, of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];*
- z) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];*
- aa) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the*

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*Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part);*

- bb) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);*
- cc) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless the items are transferred as jewelry and therefore subject to tax;*
- dd) *through June 30, 2003, of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);*
- ee) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);*
- ff) *through June 30, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);*
- gg) *of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);*

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- hh) *of semen used for artificial insemination of livestock for direct agricultural production.* [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- ii) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.* [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- jj) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.* [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must

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include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- kk) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois* [35 ILCS 120/2-5(23)];
- ll) ~~until June 1, 2000,~~ *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008* [35 ILCS 120/2-5(27)];
- mm) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);
- nn) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);

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- oo) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];*
- pp) *through June 30, 2003, of aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];*
- qq) beginning July 20, 1999, game or game birds purchased at:
- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
  - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
  - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
- rr) *beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
  - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];*

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- ss) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*
- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
  - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
  - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];*
- tt) [through December 31, 2002](#), *of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2]*

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*The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];*

- uu) through August 20, 2004, of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)]
- Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- vv) beginning August 23, 2001 and through June 30, 2011, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate

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*consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5(35-536)];*

ww) *beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.);*

xx) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*

- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
- 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
- 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605);*

yy) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before October 11, 2007, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15, 25];*

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zz) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies. [35 ILCS 120/2-5(39)]*

(Source: Amended at 33 Ill. Reg. 1762, effective January 13, 2009)

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- 1) Heading of the Part: Illinois Cycle Rider Safety Training Program
- 2) Code Citation: 92 Ill. Adm. Code 455
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
455.10	New Section
455.20	New Section
455.30	New Section
455.40	New Section
455.50	New Section
455.60	New Section
455.70	New Section
455.80	New Section
455. APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by Section 1 through 7 of the Cycle Rider Safety Training Act [625 ILCS 35]
- 5) Effective Date of Rules: January 16, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 10, 2008; 32 Ill. Reg. 16345
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: Various grammatical and formatting changes were made in agreement with JCAR. Additionally, the Department made the following substantive changes:

At Section 455.30, the definition of "Chief Instructor" was revised.

At Section 455.40, a new subsection (c) was added as follows:

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- c) The Department incorporates by reference the Motorcycle Safety Foundation's RiderCoach Trainer Guide as it was in effect as of March 2008, as the curriculum for the Chief Instructor courses. No later amendments to or editions of the Motorcycle Safety Foundation's RiderCoach Trainer Guide are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181.

At Section 455.50(a)(4), the Department added the following:

- 4) Chief Instructor Qualifications  
Chief Instructors shall meet the following requirements:
- A) Complete a Chief Instructor Course, as required by the course curricula (See Section 455.40 for course curricula.); and
- B) Maintain Chief Instructor recertification requirements, as required by the course curricula.

At Section 455.50(a)(5)(C), the Department deleted "Green Cross".

At Section 455.50(c)(3), the Department inserted "(to the Regional Center)" after "notice".

At Section 455.70(a), the Department made a change to read as follows: "No fee shall be charged for the Cycle Rider Safety Training courses, except for a nominal registration fee that shall be refunded upon completion of the course. Students may donate the registration fee to the Regional Center."

At Section 455.70(g)(2)(C), the Department made a change to read as follows: "including 911, at the discretion of the instructors, and additional telephone numbers, such as students' designated emergency contact numbers)".

At Section 455.70(h)(1), the Department made a change to read as follows: "written test for beginner course".

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At Section 455.70(h)(2), the Department made a change to read as follows: "skills or written test for beginner course".

At Section 455.70(h)(2), the Department revised the provision to read as follows: "Fail – Student attended at least 50% but less than 100% of the course; failed the skills or written test for beginner course; or displayed unsafe conduct that endangered himself/herself or any other person."

- 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 Rules: By this Notice, the Department, through its Division of Traffic Safety, has adopted a new, updated Part on the Illinois Cycle Rider Safety Training Program while simultaneously adopting a repealer of the old rules, notice and text of which appear elsewhere in this issue of the *Illinois Register*. Among the significant changes between the new and the old Parts:

At Section 455.40, Incorporation by Reference, the Department incorporated by reference the most recent editions of the Motorcycle Safety Foundation's *RiderCoach Guide* and *RiderCourse Suite* as the curricula used for beginner and advanced cycle rider safety training courses. Additionally, the Department incorporated by reference the Motorcycle Safety Foundation's RiderCoach Trainer Guide as the curricula for the Chief Instructor courses. Finally, the Department incorporated by reference the most recent edition of the Federal Motor Vehicle Safety Standard that governs motorcycle helmets (49 CFR 571.218). All helmets used in the Program must conform to or exceed 49 CFR 571.218.

At Section 455.50, Program Requirements, the Department updated the regional boundaries that determine which counties are served by which Regional Center; clarified the responsibilities of the Program Coordinator and the Assistant Coordinator; added additional criteria for determining where training sites are located throughout the State; clarified the Division's criteria for approving training facilities; updated training equipment requirements; updated instructor qualification requirements; updated insurance requirements for Regional Centers and students; added a requirement that

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Regional Centers seek approval from the Division regarding the use of the official logo; and amended the record retention requirements for Regional Centers.

At Section 455.60, Contracts, the Department summarized the content of the contracts that are entered into with the Regional Centers.

At Section 455.70, Cycle Rider Safety Training Courses, the Department added a new subsection that contains statutory language regarding a registration fee for the training courses; updated language regarding the eligibility of students under the age of 18 (but at least 16 years old); added a subsection that requires Regional Centers to utilize the current course curricula chosen by the Division; updated the content requirements for the instructor's manual; amended passing criteria to require students to attend 100% of the course; updated the class size and student/instructor ratio requirements; updated requirements for safety equipment used during the training courses; added a subsection that prohibits training cycles from being ridden to or from the cycles' storage site to the course range; added a subsection regarding when training will not be conducted due to inclement weather; updated subsections regarding crash and incident reporting; added a subsection that details the pass/fail/drop criteria for students; and added a subsection regarding the student completion card.

At Section 455.80, Reimbursement Process, the Department updated claim procedures that the Regional Centers must follow to receive reimbursement from the Division.

At Section 455.Appendix A, the Department added a listing that provides the address, phone number and website for each Regional Center. Counties assigned to each Regional Center are also listed with each counties' Regional Center designation.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-3031

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

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## NOTICE OF ADOPTED RULES

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

## PART 455

## ILLINOIS CYCLE RIDER SAFETY TRAINING PROGRAM

## Section

455.10	Purpose and Authority
455.20	Applicability
455.30	Definitions
455.40	Incorporations by Reference
455.50	Program Requirements
455.60	Contracts
455.70	Cycle Rider Safety Training Courses
455.80	Reimbursement Process
455.APPENDIX A	Regional Centers and Counties

**AUTHORITY:** Implementing and authorized by Sections 1 through 7 of the Cycle Rider Safety Training Act [625 ILCS 35].

**SOURCE:** Old Part repealed at 33 Ill. Reg. 1812, and new Part adopted at 33 Ill. Reg. 1785, effective January 16, 2009.

**Section 455.10 Purpose and Authority**

The purpose of this Part is to prescribe the requirements for administering the Illinois Cycle Rider Safety Training Program that promotes safety for persons and property connected with the use and operation of motorcycles, motor driven cycles and motorized pedalcycles as authorized by the Cycle Rider Safety Training Act [625 ILCS 35]. The Illinois Department of Transportation has the power, duty and authority to administer the Act. (See Section 3 of the Act.)

**Section 455.20 Applicability**

This Part applies to:

- a) Regional Cycle Rider Safety Training Centers and staff; and

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- b) Students in the Program.

**Section 455.30 Definitions**

"Act" means the Cycle Rider Safety Training Act [625 ILCS 35].

"Advanced Course" means a course designed to develop advanced braking and steering skills while the student is astride his/her own cycle. Classroom materials cover cycle handling dynamics and traction management.

"Beginner Course" means a training course that includes both classroom and on-cycle instruction. The course is designed to reduce the likelihood and severity of cycle crash involvement by teaching essential street riding skills and developing riding strategies.

"Assistant Coordinator" means the person who assists the Program Coordinator with day-to-day operations of the Program.

"Chief Instructor" means the person who is qualified under this Part to train and certify Program instructors. (See Section 455.50(a)(4) for qualifications.)

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Contract" means an annual written agreement between the Illinois Department of Transportation, Division of Traffic Safety, and each Regional Center. The contract year begins December 1 and ends the following November 30. A contract will specify the requirements of the Program and the amount of money provided from the Cycle Rider Safety Training Fund to implement the Program as provided in Section 6 of the Act.

*"Cycle" means a motorcycle, motor driven cycle or motorized pedalcycle as defined in the Illinois Vehicle Code. (Section 2.01 of the Act)*

*"Cycle Rider" means every person who rides and is in actual physical control of a cycle. (Section 2.02 of the Act)*

"Cycle Rider Safety Training Courses" or "Courses" means beginner and advanced courses of instruction in the use and operation of cycles, including instruction in the safe on-road operation of cycles, the rules of the road and the

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laws of Illinois relating to motor vehicles. These courses must meet the minimum requirements of the Act and this Part and must be approved by the Department as meeting those requirements. (See Section 2.03 of the Act.)

*"Department" means the Illinois Department of Transportation.* (Section 2.04 of the Act)

"Division" means the Illinois Department of Transportation, Division of Traffic Safety.

*"Driver's License" means any license or permit to operate a motor vehicle under the laws of Illinois.* (Section 2.05 of the Act)

"Instructor" means the person or persons qualified under this Part to teach both on-cycle and classroom sessions of the Program. Instructors must successfully complete an Instructor Training Course prior to performing the duties of an instructor.

"Instructor Update Seminar" means an annual seminar conducted at a Regional Center that Program instructors must attend annually to update and review curriculum and other issues related to the Program.

*"Motor Driven Cycle" means every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.* (Section 1-145.001 of the Code)

*"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor.* (Section 1-147 of the Code)

"Program" means the Illinois Cycle Rider Safety Training Program.

"Program Coordinator" means the person employed at a Regional Center who is responsible for the day-to-day management of the Program within a Region. The Program Coordinator must meet the Division's Chief Instructor criteria within 18 months after becoming a Program Coordinator.

"Program Director" means the person employed by the State college or community college, the State university or the community agency designated by

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the Department to have the overall responsibility for management of the Program within a Region.

"Range" means the paved area that is used to conduct the "on-cycle" portion of the training course.

"Range Aide" means the person employed at a Regional Center who is responsible for preparing the range, cycles and other equipment for on-cycle instruction and for maintaining cycles in a safe operating condition. Range Aides must successfully complete a beginner course instructor program under Section 455.50 prior to employment.

"Region" means the geographic area made up of a group of counties that constitutes an area served by each Regional Cycle Rider Safety Training Center.

"Regional Cycle Rider Safety Training Center" or "Regional Center" means any State college or community college, a State university or a community agency selected by the Division to administer the Program within a defined Region.

"Training Site" means the physical location of the training range or ranges, the classroom or classrooms and the storage facility. Each Region may have more than one training site. A training site may have more than one training range and/or classroom. All training sites shall be selected by the Program Coordinator and approved by the Division prior to use. (See Section 455.50(b) for criteria used to approve training site.)

"USDOT" means the United States Department of Transportation.

**Section 455.40 Incorporations by Reference**

- a) The Department incorporates by reference the Motorcycle Safety Foundation's RiderCoach Guide, as it was in effect as of April 2008, as the curriculum for the beginner courses. No later amendments to or editions of the Motorcycle Safety Foundation's RiderCoach Guide are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181.
- b) The Department incorporates by reference the Motorcycle Safety Foundation's Experienced RiderCourse Suite, as it was in effect as of May 2003, as the

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curriculum for the advanced courses. No later amendments to or editions of the Motorcycle Safety Foundation's Experienced RiderCourse Suite are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181.

- c) The Department incorporates by reference the Motorcycle Safety Foundation's RiderCoach Trainer Guide as it was in effect as of March 2008, as the curriculum for the Chief Instructor courses. No later amendments to or editions of the Motorcycle Safety Foundation's RiderCoach Trainer Guide are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181.
- d) Every helmet used in the Program must conform to the applicable provisions of 49 CFR 571.218 (Motorcycle helmets) of the Federal Motor Vehicle Safety Standard (FMVSS). Those applicable provisions of the FMVSS are incorporated by reference as that part of the FMVSS was in effect on October 1, 2007. No later amendments to or editions of 49 CFR 571.218 are incorporated. Copies of the above materials incorporated by reference are available for inspection at the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> 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/safety.html>.

**Section 455.50 Program Requirements**

- a) **Regional Centers**

The Division will enter into an annual contract with a State college or a community college, a State university or a community agency of its choice to act as a Regional Center for purposes of administering the Program. Training courses will be offered at a Regional Center or at any of the training sites within a Region. Regional Centers shall administer and operate the Program in compliance with this Part.
- 1) **Regional Boundaries**

Regional boundaries are established by the Division through the assignment of counties to a specific Region. Factors used to determine

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which Region a county is assigned to include the county's proximity to a Regional Center as well as population factors within the State. (See Appendix A for county assignments.) The designated Regions and county assignments are also available on the Department's internet site at <http://www.dot.il.gov/cycle.html>.

- 2) Program Directors  
Each State college or community college, State university or community agency shall appoint a Program Director who shall be responsible for the overall management of the Program. The Program Director shall be experienced in program management, including fiscal management, personnel management and preparation of contract proposals and shall have a technical understanding of the Program.
- 3) Program Coordinators and Assistant Coordinators
  - A) Each Regional Center shall employ a Program Coordinator to manage the day-to-day operations of the Program. Each Regional Center may appoint an Assistant Coordinator to assist the Program Coordinator. The Program Coordinator (and the Assistant Coordinator, if applicable) must successfully complete a beginner course instructor program under this Section. The Program Coordinator shall be a Chief Instructor or shall become a Chief Instructor within 18 months after becoming a Program Coordinator. The Program Coordinator shall be knowledgeable of cycle safety as well as administrative and personnel management issues. The Program Coordinator must have the ability to effectively teach the concepts and lessons of the Program. The Program Coordinator (and Assistant Coordinator, if applicable) must teach at least one beginner course annually.
  - B) Responsibilities of the Program Coordinator include, but are not limited to:
    - i) Preparation of contract proposals;
    - ii) Management of program costs;
    - iii) Training activities;

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- iv) Supervision and evaluation of instructors;
  - v) Selection and equipping of training sites;
  - vi) Development and distribution of course schedules;
  - vii) Procurement and management of cycles and related training equipment;
  - viii) Preparation of reports; and
  - ix) Documentation of costs for reimbursement purposes.
- 4) Chief Instructor Qualifications  
Chief Instructors shall meet the following requirements:
- A) Complete a Chief Instructor Course, as required by the course curricula (See Section 455.40 for course curricula.); and
  - B) Maintain Chief Instructor recertification requirements, as required by the course curricula.
- 5) Beginner Course Instructor Qualifications  
Instructors of the beginner course shall meet the following requirements:
- A) Possess a Student Completion Card (see Section 455.70(i));
  - B) Possess a valid Class M driver's license (i.e., motorcycle (150 or more cubic centimeters displacement)) or the equivalent license of another state;
  - C) Possess a valid Red Cross Basic First Aid Card or Division-approved equivalent (e.g., military first aid training, emergency medical technician);
  - D) Be knowledgeable of and able to perform basic cycle maintenance;

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- E) Be able to operate a 5 pound (minimum) dry-chemical (Type A, B or C) fire extinguisher;
  - F) Successfully complete an instructor training course that meets the standards of the Division-approved curriculum and demonstrate riding ability to the satisfaction of the Chief Instructor (See Section 455.40 for Division-approved curriculum.);
  - G) Successfully practice teach designated portions of a beginner course under the supervision and in the presence of a Chief Instructor;
  - H) Maintain instructor certification in accordance with the curriculum; and
  - I) Attend an annual Instructor Update Seminar conducted by a Regional Center.
- 6) **Advanced Course Instructor Qualifications**  
Instructors of the advanced course shall meet the following requirements:
- A) Maintain beginner course instructor certification in accordance with the curriculum;
  - B) Complete a one-day advanced instructor course taught by a qualified Chief Instructor; and
  - C) Complete an annual Instructor Update Seminar conducted by a Regional Center.
- 7) **Range Aide Qualifications**  
Persons employed as Range Aides shall meet the following requirements:
- A) Possess a Beginner Course Student Completion Card (see Section 455.70(i));
  - B) Possess a valid Class M Illinois driver's license or Class L driver's license (i.e., motor driven cycle (under 150 cubic centimeters displacement)) or the equivalent license of another state; and

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- C) Be knowledgeable of and able to perform basic cycle maintenance and repair.
- b) Training Sites
- Courses may be conducted at various training sites established as needed throughout a Region. The Program Coordinator shall consider the following factors when selecting a training site: cycle crash data by county, cycle registrations by county, the number of requests for courses, and the availability of an acceptable site.
- 1) All training sites shall be approved by the Division prior to use. The Division will approve a training site when the requirements of subsections (b)(1)(A) through (b)(1)(C) are met.
- A) Range Areas
    - i) A range area shall be a paved surface free from street traffic and surface obstructions. All range areas must be approved by the Division. Adequate room must be provided on the range to conduct maneuvers. A range drawing indicating the location, area dimensions and exercise layouts specified shall be submitted to the Division two weeks prior to use and shall indicate any potential hazards on or adjacent to the range. Potential hazards may include, but are not limited to, light poles, fences, raised medians, or parking blocks. If the range or adjacent area changes, an updated drawing shall be submitted to the Division at the following address within one week after the Program Coordinator's knowledge of the change.

Manager, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
3215 Executive Park Drive  
Springfield IL 62794-9212

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- ii) The paved range area must meet standards established by the Division in subsection (b)(1)(A)(i). The Division may approve exceptions to the standards based on an on-site evaluation of the range. Exceptions may include reduced range size and changes to layouts and exercise areas due to potential hazards such as those listed in subsection (b)(1)(A)(i).
  - B) Classroom Facilities  
The classroom shall be a room that is usually within walking distance of the range area. The classroom shall be equipped with desks that provide a writing space for each student. A desk or podium and chair shall be provided for the instructor, along with a table to accommodate any audio-visual equipment.
  - C) Storage Facilities  
A locked storage facility shall be provided with space adequate for the storage of cycles and related training equipment kept at the site overnight (e.g., helmets, course cones).
- 2) Training Equipment  
For a beginner course, the Regional Centers shall furnish the cycles and helmets used during the course. Cycle size and type shall be determined by the Division. For an advanced course, the student will be required to furnish a helmet and a cycle.
- A) Helmet Standards  
All helmets shall meet or exceed FMVSS 218.
  - B) Cycle Acquisition  
Cycles may be acquired through dealer loan agreements or the Division may purchase cycles for each Regional Center. Cycles are usually purchased from funds deposited into the Cycle Rider Safety Training Fund as authorized in Section 6 of the Act. Cycles are sometimes donated by cycle manufacturers, dealers, clubs, organizations and/or individuals. The Division may also authorize a Regional Center to purchase cycles used in its Region.
- c) Insurance

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- 1) The Regional Center shall obtain liability insurance for each cycle used by a beginner course student in the Program.
- 2) Minimum insurance limitations and coverages shall be:
  - A) Bodily injury and property damage liability;
  - B) A combined single limit of \$1,000,000 for each occurrence and \$2,000,000 aggregate;
  - C) \$100 deductible per crash (paid by the Regional Center);
  - D) Actual cash value comprehensive and collision; and
  - E) Excess medical coverage in the amount of \$10,000 per person.
- 3) Proof of insurance shall be submitted to the Division by the Regional Center prior to the start of any beginner or advanced course. The insurance policy shall contain a 30-day written notice (to the Regional Center) of cancellation clause. Insured entities shall include:
  - A) the Regional Center;
  - B) the Department, the Division, their guests, officers and employees;
  - C) the owners of selected training sites; and
  - D) the participating cycle dealers (if applicable).
- 4) All advanced course students must provide their own cycle or have the owner's written permission to use a borrowed cycle. All cycles used by advanced course students must be properly registered and insured for liability damage.
- 5) Regional Centers carry excess medical insurance coverage for students enrolled in the Program. If a student is injured while participating in the Program, he/she must first submit the medical bills to his/her own insurance carrier. The Regional Center's coverage is considered a

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secondary policy. If the student does not have medical insurance, the Regional Center's medical coverage will be the primary insurer for the claim, up to the limit of its coverage.

- d) **Public Relations**  
A Regional Center may implement a multi-media public relations program. Regional Centers are encouraged to secure free promotional opportunities through any news media.
- e) **Logo**  
The Division will approve an official Program logo. The official logo must be used on all Program materials (e.g., course schedules, informational brochures, web sites) used by Regional Centers. Each Regional Center may adopt a unique logo specific to its Region. The Regional logo may be used in addition to the Program logo. All Regional logos and Program materials shall be approved by the Division prior to use.
- f) **Record Retention**  
All records and reports completed by a Regional Center while under contract with the Division are the property of the Division.
  - 1) **Fiscal Records**  
Fiscal records shall be retained by the Regional Center for a period of three years after the final reimbursement claim of the contract year has been paid by the Division. All fiscal records that are subject to an audit finding shall be maintained until the finding is resolved.
  - 2) **Record Accessibility**  
The State of Illinois or its representatives shall have access to all Program-related records, documents or reports generated at the Regional Center.
- g) **Audits**  
All contract costs are subject to audit by the State of Illinois or its representative. Audits will be conducted after receipt of the final reimbursement claim for a contract year. The audit procedure may include an on-site inspection of all applicable Program records. The Division reserves the right to conduct audits on a random basis to verify compliance with this Part. Regional Centers will be required to reimburse the Division for any unauthorized or improperly documented expenditures.

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**Section 455.60 Contracts**

The Department will award annual contracts out of appropriations to the Department from the Cycle Rider Safety Training Fund to be used by the Regional Centers to conduct approved Cycle Rider Safety Training Courses. (See Section 7 of the Act.) An approved contract executed by the Department is required before the State is bound.

- a) **Content of Contracts**  
Each contract must include provisions defining a sound and complete agreement, including the:
  - 1) Nature and scope of the work to be performed;
  - 2) Time frame for performance;
  - 3) Contract termination/cancellation provisions;
  - 4) Total cost for the contract; and
  - 5) Certifications.
  
- b) **Contract Termination/Cancellation**  
The obligation of the State will cease immediately without penalty or further payment being required if, in any fiscal year, the General Assembly fails to appropriate or otherwise make funds available for contracts. A contract may be terminated by either party upon 30 days written notice. Failure to carry out the conditions set forth in the contract and this Part will constitute a breach of the contract and may result in termination of the contract. Upon termination, the Regional Center will be reimbursed for work satisfactorily completed prior to the date of termination.

**Section 455.70 Cycle Rider Safety Training Courses**

- a) **Course Cost**  
No fee shall be charged for the Cycle Rider Safety Training courses, except for a nominal registration fee that shall be refunded upon completion of the course. Students may donate the registration fee to the Regional Center.

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- b) **Student Eligibility**  
To participate in the Cycle Rider Safety Training Program, a student must:
- 1) be a resident of the State of Illinois;
  - 2) be at least 16 years of age;
  - 3) hold a valid driver's license or permit; and
  - 4) show current proof of liability insurance (advanced course students only).
- c) Every student must sign a "Waiver or Release of Liability" form stating that he/she will not hold the Department liable for any injury or harm that may have occurred during his/her participation in the Program. This form is retained by the Regional Center for a minimum of seven years following the student's completion of the course. Any student under 18 years of age must have the written consent of a parent or guardian to participate in the Program. The parent or guardian's signature must be included on the "Waiver or Release of Liability" form.
- d) **Course Curricula**  
The curricula for beginner and advanced courses is selected by the Division. Either the Division or the Program Coordinator may make modifications to the curricula to improve the safety, effectiveness or efficiency of the Program. An example of a modification is changing the direction of the cycles' flow due to geographical logistics of the range. Any proposed modification made by a Program Coordinator must be pre-approved by the Division. The proposed modification must be submitted in writing to the Division at the address provided in Section 455.50(b)(1)(A)(i) at least two weeks prior to implementation.
- e) **Instructor's Manual**  
Each Regional Center shall compile and print an Instructor's Manual for distribution to each instructor teaching courses within the Region. The Manual shall detail information instructors will need to train students in the Program. The Manual may be revised as needed. All revisions shall be made in accordance with this Part and shall be submitted to the Division for approval at the address provided in Section 455.50(b)(1)(A)(i) at least two weeks prior to use. The Manual shall include:
- 1) An introduction

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## NOTICE OF ADOPTED RULES

A brief history of the Cycle Rider Safety Training Program shall be included. (History information is available by contacting the Division at the address provided in Section 455.50(b)(1)(A)(i).)

- 2) Procedures  
The following Sections of this Part:  
  
Section 455.50(a)(5) Beginner Course Instructor Qualifications  
Section 455.50(a)(6) Advanced Course Instructor Qualifications  
Section 455.50(a)(7) Range Aide Qualifications  
Section 455.70(f) Class Size and Instructor/Range Aide Ratios  
Section 455.70(g) Safety Regulations.
- 3) Regional Boundaries  
An identification of the counties to be served by the Regional Center. The address, telephone number and website address of each Regional Center shall be listed in the Manual.
- 4) Public Relations  
An explanation of the importance of a strong public relations program, together with examples of established and suggested public relations materials and procedures.
- 5) Cycle Use  
An explanation of the proper use of Program cycles (e.g., not allowing the cycle to be operated for personal use).
- 6) Conduct  
Guidelines for the proper conduct of instructors, range aides and students. The instructor shall have the authority to evict any student from the instruction period or from the course if the student disrupts the course or if the student displays conduct that may endanger himself/herself or any other person.
- 7) Duties  
An explanation of the duties of chief instructors, instructors and range aides. Instructions shall also be included that require the instructor to attach completed Student Registration Forms to Program Attendance Records and submit them to the Regional Center as soon as practicable

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

after the completion of a course. Both documents are to be maintained at the Regional Center for at least five years.

- 8) Student Status  
A definition of student eligibility as provided in subsection (b) and the criteria for passing the course as provided in subsection (e)(12).
- 9) Course Documents  
Examples of forms provided in the manual shall include:  
  
Waiver or Release of Liability  
Student Registration  
Attendance Record  
Crash/Incident Report (Instructor and Student)  
Claim Form for Reimbursable Costs.
- 10) Student Identification Number (SIN)  
An explanation of the criteria used to develop the SIN shall be provided.
  - A) Each student who attends any portion of a course must complete and sign a Student Registration form and is assigned a SIN. The SIN is a nine digit number that identifies all students enrolled in the Program.
  - B) An explanation of the nine-digit SIN used on the Student Registration form is as follows:  
  
Field 1: Year (two digits)  
Field 2: Regional Center and Training Site (three digits)  
Field 3: Course number (two digits)  
Field 4: Student number (two digits).
  - C) The Regional Center and training site numbers assigned to the Region and training site shall be included in each Instructor's Manual.
- 11) Compensation  
A statement of the pay rates used to compensate instructors and range aides.

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- 12) **Passing Criteria**

An explanation of the criteria used to determine if a student passes a beginner or advanced course shall be included in the manual.

  - A) A student is considered to have passed the course if he/she has attended 100% of the course and passed the appropriate skills and written test (for beginner course only). (Also see subsections (h)(1) and (h)(2) of this Section for pass/fail criteria.)
  - B) Students who successfully pass the course shall be issued a Student Completion Card either at the completion of the course or by U.S. mail following the completion of the course.
  - C) The instructor shall have the authority to fail any student from a course if the student displayed unsafe conduct that may have endangered him/herself or any other person.
- 13) **Division Questionnaire**

The instructor shall inform each student that he/she may receive a questionnaire from the Division concerning the course. The student will be provided a self-addressed stamped envelope and will be requested to return the questionnaire within 14 business days after completion of the course.
- 14) **Instructional Plan**

A plan that outlines the lessons normally taught during each course session. The plan also details instructor course requirements (e.g., how early instructors should arrive before each session).
- f) **Class Size and Instructor/Range Aide Ratios**
  - 1) **Beginner Courses**
    - A) A minimum of eight registered students and a maximum of 12 registered students at the first course session is required to conduct a beginner course.

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## NOTICE OF ADOPTED RULES

- B) Regional Centers may be required to limit the number of students in a beginner course if the Regional Center cannot provide a cycle for each student registered to take the course.
  - C) Student/instructor ratio for beginner course range training shall not be greater than six to one. Every range session shall have a minimum of two qualified persons (either an instructor and range aide or two instructors) present at all times.
- 2) Advanced Courses
- A) A minimum of eight registered students and a maximum of 12 registered students at the first course session is required to conduct an advanced course.
  - B) Student/instructor ratios shall not be greater than six to one. Every range session shall have at least two advanced course instructors.
- g) Safety Regulations
- 1) Protective equipment shall be worn by the instructors, range aides and students at all times when students are sitting on a cycle. Instructors and range aides are not required to wear protective equipment when starting Program cycles. Protective equipment includes:
    - A) A helmet that meets or exceeds the requirements of Section 455.50(b)(2)(A);
    - B) Full-fingered gloves;
    - C) Long-sleeved clothing (i.e., jacket or shirt);
    - D) Long pants;
    - E) Sturdy over-the-ankle footwear (not cloth or canvas); and
    - F) Eye protection (i.e., glasses, goggles or helmet visor).

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- 2) The following emergency equipment must be present and readily available at all training sites:
  - A) A fully-charged 5-pound (minimum) dry-chemical (Type A, B or C) fire extinguisher;
  - B) A fully-stocked industrial-quality first aid kit; and
  - C) Specific procedures to follow in the event of a crash (including 911, at the discretion of the instructors, and additional telephone numbers, such as students' designated emergency contact numbers).
- 3) A telephone must be available within easy access of all training sites.
- 4) If training cycles are stored away from the range, they shall not be ridden to or from the range.
- 5) Training will not be conducted during a thunderstorm, snowstorm or windstorm. Training will also not be conducted when ice is present on the range or if the instructor or instructors determine that the students' safety is at risk.
- 6) Crash and Incident Reporting
  - A) When any crash occurs during a training session, the instructor shall complete a Motorcycle Crash/Incident Report (MCIR) form. The student involved in the crash shall also complete a Student MCIR form explaining his/her version of the crash. The instructor shall submit both MCIRs to the Regional Center within two working days after the crash. The Regional Center shall submit both MCIRs to the Division within two working days after receiving the forms.
  - B) If any crash occurs during a training session that requires emergency medical attention, the instructor shall notify the Regional Center by telephone within 24 hours after the crash. The Regional Center shall inform the Division by telephone within 24 hours after being notified by the instructor. The instructor shall

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complete and submit the Instructor MCIR to the Regional Center within two working days after the crash. The student involved shall also complete a Student MCIR and submit it to the Regional Center as soon as possible. The Regional Center shall submit both MCIR forms to the Division within two working days after receiving the forms.

- C) If any damage occurs to a cycle, the instructor shall complete an MCIR and submit it to the Regional Center as soon as practicable. The Regional Center shall submit the form to the Division within 20 working days after receiving it.
- h) **Student Status at Course Completion**  
Each registered student will be classified as a Pass, Fail or Drop at course completion based on the following:
  - 1) Pass – Student attended 100% of the course, passed the skills and written test for beginner course, and was certified by the instructor as having reached the general level of knowledge, awareness and competence expected of graduates of the course.
  - 2) Fail – Student attended at least 50% but less than 100% of the course; failed the skills or written test for beginner course; or displayed unsafe conduct that endangered himself/herself or any other person.
  - 3) Drop – Student attended less than 50% of the course.
- i) **Student Completion Card**  
Those students who pass a beginner or advanced course shall be issued an official Student Completion Card. Replacement cards shall only be issued by the Regional Center to students who request a replacement card within three calendar years from the date of course completion.

**Section 455.80 Reimbursement Process**

- a) The Division shall reimburse the Regional Center for actual costs incurred that are necessary to administer the Program as specified in the Program contract. All actual costs must be considered eligible expenses as predetermined by the contract.

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- b) Actual costs to be claimed shall be documented on the Regional Center's Claim Form for Reimbursable Costs. The Claim Form must identify the:
  - 1) Vendor;
  - 2) Amount Paid;
  - 3) Transaction Date; and
  - 4) Budget Line Item for Each Cost.
- c) Receipts (original or copies) that document Program costs listed in subsection (b) shall either be attached to the Claim Form and submitted to the Division at the address provided in Section 455.50(b)(1)(A)(i) or maintained at the Regional Center for at least three years after the final reimbursement claim for a contract year has been paid. Receipts maintained at the Regional Center must be available for inspection by the Division during normal business hours.
- d) If a Regional Center has not complied with all provisions of this Section, the Department may require a Regional Center to submit all future receipts with its Claim Form.
- e) Actual costs for monthly expenditures shall be claimed within 60 calendar days after the month the course was completed. A final claim that documents any costs that were unresolved or pending may be submitted to the Division within 90 days after the expiration of the annual contract.

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**Section 455.APPENDIX A Regional Centers and Counties**

Region A	Northern Illinois University Motorcycle Safety Project Division of Continuing Education DeKalb, Illinois 60115-2854 (800)892-9607 (815)753-1683 <a href="http://www.outreach.niu.edu/mcycle/">www.outreach.niu.edu/mcycle/</a>	Boone, Carroll, DeKalb, DuPage, JoDaviess, Kane, Lake, Lee, McHenry, Ogle, Stephenson, Whiteside, Winnebago
Region B	Illinois State University Health Science Department 5221 Motor Cycle Safety Program Normal, Illinois 61790-5221 (800)322-7619 (309)438-2352 <a href="http://www.ilstu.edu/depts/mcsafety/">www.ilstu.edu/depts/mcsafety/</a>	Bureau, Cass, DeWitt, Fulton, Grundy, Hancock, Henderson, Henry, Kendall, Knox, LaSalle, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Mercer, Peoria, Piatt, Putnam, Rock Island, Sangamon, Schuyler, Stark, Tazewell, Warren, Woodford
Region C	University of Illinois Motorcycle Rider Program Department of Community Health #4 Gerty Drive Champaign, Illinois 61820 (800)252-3348 (217)333-7856 <a href="http://www.mrc.uiuc.edu">www.mrc.uiuc.edu</a>	Champaign, Cook, Ford, Iroquois, Kankakee, Vermilion, Will

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## Region D

Southern Illinois University Carbondale  
Motorcycle Rider Program  
Center for Injury Control and  
Work Site Health Promotion  
Carbondale, Illinois 62901-6731  
(800)642-9589  
(618)453-2877  
[www.siu.edu/~cycle](http://www.siu.edu/~cycle)

Adams, Alexander,  
Bond, Brown, Calhoun,  
Christian, Clark, Clay,  
Clinton, Coles,  
Crawford, Cumberland,  
Douglas, Edgar,  
Edwards, Effingham,  
Fayette, Franklin,  
Gallatin, Greene,  
Hamilton, Hardin,  
Jackson, Jasper,  
Jefferson, Jersey,  
Johnson, Lawrence,  
Macoupin, Madison,  
Marion, Massac,  
Monroe, Montgomery,  
Morgan, Moultrie, Perry,  
Pike, Pope, Pulaski,  
Randolph, Richland, St.  
Clair, Saline, Scott,  
Shelby, Union, Wabash,  
Washington, Wayne,  
White, Williamson

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Illinois Cycle Rider Safety Training Rules
- 2) Code Citation: 92 Ill. Adm. Code 455
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
455.101	Repeal
455.102	Repeal
455.103	Repeal
455.104	Repeal
455.105	Repeal
455.106	Repeal
455.107	Repeal
455.108	Repeal
- 4) Statutory Authority: Implementing and authorized by Sections 1 through 5 of the Cycle Rider Safety Training Act (Ill. Rev. Stat. 1981, ch. 95 ½, pars. 801-805)
- 5) Effective Date of Repealer: January 16, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's Division of Traffic Safety and Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 10, 2008; 32 Ill. Reg. 16327
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this repealer replace any emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED REPEALER

- 15) Summary and Purpose of Repealer: The Department repealed this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, has adopted a new rule that revised and updated the Illinois Cycle Rider Safety Training Program.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JANUARY 2009 REGULATORY AGENDA

- a) Part: General Policies (1 Ill. Adm. Code 210)
- 1) Rulemaking:
- A) Description: This Part covers JCAR's statutory responsibilities, rule-drafting assistance services, electronic access to the *Illinois Administrative Code*, availability of the *Flinn Report* and JCAR's annual report.
- B) Statutory Authority: 5 ILCS 100
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Spring 2009
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
Claire B. Eberle  
700 Stratton Office Bldg.  
Springfield, IL 62706  
217/785-2254
- G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 220, 230, 240, 243, 245 and 260.
- b) Part: Review of Proposed Rulemaking (1 Ill. Adm. Code 220)
- 1) Rulemaking:
- A) Description: This Part recognizes special statutory consideration for small municipalities and not-for-profit corporations in rulemaking; adds additional information an agency must include in the economic and budgetary impact analysis it provides to JCAR; adds a requirement that, along with public comment received by the agency, the agency provide JCAR with the written response the agency made to the commentor and clarifies that citations to a rule's statutory authority should be to the statute specifically authorizing the policy, not to general rulemaking authority; clarifies that the rule's list of criteria for issuance of a Filing Prohibition is

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nonexclusive and adds violation of statute as a standard for issuance of a Filing Prohibition; reflects current statute affecting issuance and withdrawal of a Filing Prohibition; clarifies that JCAR can choose to take no action with respect to a rulemaking on its agenda; establishes separate requirements for an Agency Response to a procedural, as opposed to a substantive, Objection and states that Agency Responses will be placed on JCAR's agenda for further action; establishes separate guidelines for an Agency Response to a procedural, as opposed to a substantive, Recommendation and states that Agency Responses will be placed on JCAR's agenda for further action; adds additional questions to the State Mandates Questionnaire agencies provide to JCAR; adds additional elements that agencies provide in their analysis of economic and budgetary impact; and creates a format for the Notice of Failure to Remedy that JCAR submits for publication in the *Illinois Register*.

- B) Statutory Authority: 5 ILCS 100
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Spring 2009
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
Claire B. Eberle  
700 Stratton Office Bldg.  
Springfield, IL 62706  
217/785-2254
- G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 230, 240, 243, 245 and 260.

c) Part: Review of Emergency Rulemaking (1 Ill. Adm. Code 230)

1) Rulemaking:

- A) Description: This Part clarifies that the rule's list of criteria for issuance of a Suspension is nonexclusive and adds violation of statute and lack of

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statutory authority to use emergency rulemaking procedures as standards for issuance of a Suspension; reflects current statute affecting the issuance and withdrawal of a Suspension; establishes separate requirements for an Agency Response to a procedural, as opposed to a substantive, Objection and reflects new statute requiring an agency to notify JCAR, within 30 days after receipt of a Suspension, whether it elects to repeal or amend the rule and states that Agency Responses will be placed on JCAR's agenda for further action; establishes separate guidelines for an Agency Response to a procedural, as opposed to a substantive, Recommendation and states that Agency Responses will be placed on JCAR's agenda for further action; and reflects new statutory provision that JCAR can suspend an emergency rule after it receives an Agency Response refusing to remedy an Objection.

- B) Statutory Authority: 5 ILCS 100
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: Spring 2009
  - E) Affect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:  
Claire B. Eberle  
700 Stratton Office Bldg.  
Springfield, IL 62706  
217/785-2254
  - G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 220, 240, 243, 245 and 260.
- d) Part: Review of Peremptory Rulemaking: (1 Ill. Adm. Code 240)
- 1) Rulemaking:
    - A) Description: This Part clarifies that the rule's list of criteria for issuance of a Suspension is nonexclusive and adds violation of statute and lack of statutory authority to use peremptory rulemaking procedures as standards

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for issuance of a Suspension; reflects current statute affecting the issuance and withdrawal of a Suspension; establishes separate requirements for an Agency Response to a procedural, as opposed to a substantive, Objection and reflects new statute requiring an agency to notify JCAR, within 30 days after receipt of a Suspension, whether it elects to repeal or amend the rule, and states that Agency Responses will be placed on JCAR's agenda for further action; establishes separate guidelines for an Agency Response to a procedural, as opposed to a substantive, Recommendation and states that Agency Responses will be placed on JCAR's agenda for further action; and reflects new statutory provision that JCAR can suspend a peremptory rule after it receives an Agency Response refusing to remedy an Objection.

- B) Statutory Authority: 5 ILCS 100
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: Spring 2009
  - E) Affect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:  
Claire B. Eberle  
700 Stratton Office Bldg.  
Springfield, IL 62706  
217/785-2254
  - G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 220, 230, 243, 245 and 260.
- e) Part: Review of Adopted Rules (Other than Emergency and Peremptory Rules) (1 Ill. Adm. Code 243)
- 1) Rulemaking:
    - A) Description: This Part reflects the statutory requirement that JCAR promote adequate and proper rules by agencies, undertake studies and investigations concerning agency rules, monitor and investigate agencies'

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compliance with the Illinois Administrative Procedure Act, and evaluate all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy; establishes procedures for review of required (organizational) rules, Pollution Control Board and Illinois Emergency Management Agency identical-in-substance rules and other adopted rules and states that JCAR's review criteria will be the same criteria applied to proposed rulemaking; establishes guidelines for JCAR's issuance of Objections or Recommendations to existing rules; creates requirements for Agency Responses to Objections and guidelines for Agency Responses to Recommendations; and states that if an Agency Response to an Objection or Recommendation is not adequate, JCAR may draft legislation to address the problems.

- B) Statutory Authority: 5 ILCS 100
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: Spring 2009
  - E) Affect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:
    - Name: Claire B. Eberle
    - Address: 700 Stratton Office Bldg.  
Springfield, IL 62706
    - Telephone: 217/785-2254
  - G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 220, 230, 240, 245 and 260.
- f) Part: Expedited Correction (1 Ill. Adm. Code 245)
- 1) Rulemaking:
    - A) Description: This Part will be amended to make nonsubstantive cleanup only.

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- B) Statutory Authority: 5 ILCS 100
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: Spring 2009
  - E) Affect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:
    - Name: Claire B. Eberle
    - Address: 700 Stratton Office Bldg.  
Springfield, IL 62706
    - Telephone: 217/785-2254
  - G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 220, 230, 240, 243 and 260.
- g) Part: Complaint Reviews (1 Ill. Adm. Code 260)
- 1) Rulemaking:
    - A) Description: This Part will be amended to make nonsubstantive cleanup only.
    - B) Statutory Authority: 5 ILCS 100
    - C) Scheduled meeting/hearing dates: None
    - D) Date agency anticipates First Notice: Spring 2009
    - E) Affect on small businesses, small municipalities or not for profit corporations: None
    - F) Agency contact person for information:
      - Name: Claire B. Eberle
      - Address: 700 Stratton Office Bldg.  
Springfield, IL 62706
      - Telephone: 217/785-2254

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- G) Related rulemakings and other pertinent information: Additional JCAR amendments will be proposed for Parts 210, 220, 230, 240, 243 and 245.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

ILLINOIS WORKERS' COMPENSATION COMMISSION

Heading of the Part: Miscellaneous

Code Citation: 50 Ill. Adm. Code 7110

Section Number: 7110.90

Date Originally Published in the Illinois Register: 3/7/08  
32 Ill. Reg. 3213

At its meeting on January 13, 2009, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that the Commission consider seeking a statutory amendment allowing it to use more recent data than the 2002-2004 data in creation of the medical fee schedule and continue to consider comments from the affected entities on the validity of data used in creation of the schedule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION AND RECOMMENDATION  
TO PROPOSED RULEMAKING

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

Heading of the Part: Consumer Installment Loan Act

Code Citation: 38 Ill. Adm. Code 110

<u>Section Numbers:</u>	110.300	110.350	110.400
	110.310	110.360	110.410
	110.320	110.370	110.420
	110.330	110.380	110.430
	110.340	110.390	

Date Originally Published in the Illinois Register: 8/8/08  
32 Ill. Reg. 13127

At its meeting on 1/13/09, the Joint Committee on Administrative Rules objected to the Department of Financial and Professional Regulations rulemaking titled Consumer Installment Loan Act (38 Ill. Adm. Code 110; 32 Ill. Reg. 13127) because the Department lacks specific statutory authority for procedures included in this rulemaking, which could place an undue economic burden on lenders, potentially diminishing the availability of vehicle title-secured loans to consumers. Such significant changes in the regulation of these lenders are more appropriately mandated by statute than rule. JCAR recommends that DFPR-DFI seek specific statutory authority for this special regulation of short-term, vehicle title-secured loans.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection and Recommendation shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYWITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING AND  
NOTICE OF REPEAL OF THE UNDERLYING PROPOSED RULEMAKING

Agency: State Board of Education

Heading of the Part: Special Education Facilities Under Section 14-7.02 of the School Code

Code Citation: 23 Ill. Adm. Code 401

Section Numbers: 401.10  
401.30  
401.210  
401.270

Date Originally Published in the Illinois Register: 4/4/08  
32 Ill. Reg. 4705

Date Filing Prohibition Published in Illinois Register: 10/3/08  
32 Ill. Reg. 16275

Date Filing Prohibition Became Effective: 9/16/08

Date Filing Prohibition Withdrawn: 1/13/09

The Joint Committee on Administrative Rules certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on January 13, 2009, has withdrawn the prohibition against the filing of the State Board of Education's rulemaking cited above. The Committee originally issued this Filing Prohibition at its 9/16/08 meeting. JCAR notes that the filing prohibition is no longer needed because SBE did not respond to the Objection accompanying the Filing Prohibition by the statutorily specified 90-day deadline. In accordance with Section 5-110(f) of the Illinois Administrative Procedure Act, this lack of response constitutes automatic withdrawal of the rulemaking in its entirety.

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 13, 2008 through January 19, 2009 and have been scheduled for review by the Committee at its February 18, 2009 meeting. 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>
3/1/09	<u>Secretary of State</u> , Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)	9/12/08 32 Ill. Reg. 14707	2/18/09

## PROCLAMATIONS

**2009-4****A Day of Remembrance of The Honorable Thaddeus Lechowicz**

- WHEREAS, former state lawmaker Thaddeus S. Lechowicz, a loyal and dedicated public servant to Illinois, passed away on Monday, January 5, just two weeks after celebrating his 70<sup>th</sup> birthday; and
- WHEREAS, The Honorable Thaddeus Lechowicz, "Ted" as he was known to those close to him, was a lifelong resident of Chicago's Northwest side; and
- WHEREAS, The Honorable Thaddeus Lechowicz devoted his life to public service and helping others. He served in the Illinois House of Representatives, Illinois State Senate, Cook County Board of Commissioners and was the Democratic Committeeman of Chicago's 30<sup>th</sup> Ward for more than 25 years; and
- WHEREAS, throughout his career in public service spanning over 30 years, The Honorable Thaddeus Lechowicz supported access to quality health care regardless of a person's ability to pay and was a strong voice for the Polish community as well as other ethnic communities, always fighting for his constituents' rights and needs; and
- WHEREAS, over the course of his life, The Honorable Thaddeus Lechowicz made the State of Illinois a better place to live and work, and has left behind a legacy that will continue to resonate in the state for many years to come. The Honorable Thaddeus Lechowicz's commitment to public service, loyalty and strong word led to significant accomplishments and lifelong friendships that crossed party lines. He will be deeply missed by all who had the opportunity to know him; and
- WHEREAS, funeral services for The Honorable Thaddeus Lechowicz, who is survived by his wife of 44 years, Suzanne, his son Edward and daughter Laura, and four grandchildren, will be held Friday, January 9:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 9, 2009 as **A DAY OF REMEMBRANCE OF THE HONORABLE THADDEUS LECHOWICZ** in Illinois, and order all State facilities to fly their flags at half-staff from sunrise on January 9, 2009 until sunset on January 10, 2009 in honor and remembrance of The Honorable Thaddeus Lechowicz, whose dedication and commitment to public service was unwavering.

Issued by the Governor January 8, 2009  
Filed by the Secretary of State January 16, 2009.

## PROCLAMATIONS

**2009-5****Multiple Myeloma Awareness Day**

- WHEREAS, multiple myeloma is a type of cancer of plasma cells, which are immune system cells in bone marrow that produce antibodies; and
- WHEREAS, multiple myeloma is the second most common blood cancer in the United States and one of the leading causes of cancer death among African American men; and
- WHEREAS, there are approximately 45,000 people in the United States living with multiple myeloma, and the American Cancer Society estimates that approximately 14,600 new cases of myeloma are diagnosed each year in the U.S.; and
- WHEREAS, because many organs can be affected by myeloma, the symptoms and signs vary greatly, however, some of the common symptoms are bone pain, infection, renal failure, anemia and neurological symptoms; and
- WHEREAS, myeloma is regarded as incurable, but remissions may be induced with treatment, which focuses on disease containment and suppression; and
- WHEREAS, the Multiple Myeloma Research Foundation (MMRF) was founded in 1998 by identical twin sisters Kathy Giusti and Karen Andrews shortly following Kathy's diagnosis with multiple myeloma. The mission of the MMRF is to urgently and aggressively fund research that will lead to the development of new treatments for multiple myeloma; and
- WHEREAS, as the world's number-one funder of multiple myeloma research, the MMRF has raised over \$102 million to fund 90 laboratories worldwide. In 2007, nearly 93 percent of every dollar of revenue raised was directed toward myeloma research and related educational programs; and
- WHEREAS, October 2008 marked the launch of one such program; an important collaboration between the MMRF and the Chicago community's most distinguished Faith Leaders. This collaborative effort includes National and Chicago Faith Ambassadors – Dr. Reverend Toussaint King Hill Jr. and Reverend Ozzie Smith Jr., respectively, as well as the University of Chicago Medical Center; and
- WHEREAS, on January 13, the MMRF will host a Prayer Breakfast designed to create awareness about myeloma by providing the necessary information that will

## PROCLAMATIONS

empower the African American community with knowledge to help them to get the right care at the right time:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 13, 2009 as **MULTIPLE MYELOMA AWARENESS DAY** in Illinois, in order to raise awareness of this devastating disease and to encourage all citizens to educate themselves about multiple myeloma so that they may be able to recognize the signs and symptoms, request the appropriate tests, and to ask their healthcare provider the right questions.

Issued by the Governor January 9, 2009

Filed by the Secretary of State January 16, 2009.

**2009-6****Peace Corps Week**

WHEREAS, in 1961, President John F. Kennedy established the Peace Corps in hopes of promoting world peace and friendship through volunteer work in developing countries; and

WHEREAS, since its inception, more than 195,000 men and women from across the United States, including over seven thousand from Illinois, have served as Peace Corps volunteers in 139 different countries; and

WHEREAS, Peace Corps volunteers have made significant contributions around the world in agriculture, business development, information technology, education, health and HIV/AIDS, and the environment, and have improved the lives of individuals and communities around the world; and

WHEREAS, Peace Corps volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries; and

WHEREAS, Peace Corps volunteers, enriched by their experiences overseas, have brought to their communities throughout the United States a deeper understanding of other cultures and traditions; and

WHEREAS, it is indeed fitting to recognize Peace Corps as an enduring symbol of our nation's commitment to encouraging progress, creating opportunity, and expanding development at the grass-roots level across the globe:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 23 - March 2, 2009 as **PEACE CORPS WEEK** in Illinois, and encourage all citizens

## PROCLAMATIONS

to recognize and appreciate the significant and lasting impact that that these volunteers have made across the world.

Issued by the Governor January 9, 2009

Filed by the Secretary of State January 16, 2009.

**2009-7****African American History Month**

WHEREAS, Dr. Carter G. Woodson, a noted intellectual of his time, founded the Association for the Study of Afro-American Life and History (ASALH) in 1915. Eleven years later, Dr. Woodson created Negro History Week to celebrate the many contributions of African Americans to American culture and customs; and

WHEREAS, Dr. Woodson designated the second week of February as Negro History Week to coincide with the birthdays of Abraham Lincoln and Frederick Douglass, in honor of their considerable impact on African American history. In 1976, ASALH extended the celebration for the entire month of February; and

WHEREAS, there have been several milestone events in African American history during February, including: passage of the 15<sup>th</sup> Amendment in 1870, which granted African Americans the right to vote; the inauguration of the first African American Senator, Hiram Revels, also in 1870; and the founding of the National Association for the Advancement of Colored People in 1909; and

WHEREAS, throughout African American History Month, organizations all across the country celebrate African American history with seminars, plays, concerts, art shows, films, dance performances, family workshops, and other expressions of creativity and pride. Here in Illinois, we are proud to join in these spirited commemorations:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2009 as **AFRICAN AMERICAN HISTORY MONTH** in Illinois, and encourage all citizens to learn about the wonderful contributions that African Americans have made to our state, and to the nation as a whole.

Issued by the Governor January 9, 2009

Filed by the Secretary of State January 16, 2009.

**2009-8****A Day of Remembrance of The Honorable John Nimrod**

## PROCLAMATIONS

WHEREAS, former state senator John J. Nimrod, a loyal and dedicated public servant to Illinois, passed away on Sunday, January 4. He was 86; and

WHEREAS, The Honorable John Nimrod was born in Chicago to Assyrian Christian parents who had immigrated from what is now Iran; and

WHEREAS, The Honorable John Nimrod attended Northwestern University, where he earned a degree in mechanical engineering. He was also a veteran of two wars, serving with the Army in Europe during World War II, then returning to the service during the Korean War, serving in Korea before his discharge as a captain; and

WHEREAS, during 10 years as a state senator representing the north and northwest suburbs, The Honorable John Nimrod was an early advocate of solar power and worked to revise the Illinois mental health code. He was also an active leader in the Assyrian community; and

WHEREAS, over the course of his life, The Honorable John Nimrod made the State of Illinois a better place to live and work, and has left behind a legacy that will continue to resonate in the state for many years to come. He will be deeply missed by all who had the opportunity to know him; and

WHEREAS, a memorial service for The Honorable John Nimrod, who is survived by his wife Dorothy, sons Joseph and John Joseph, daughters Lizbeth and Naomi, as well as six grandchildren and three great grandchildren, will be held Monday, January 19:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 19, 2009 as **A DAY OF REMEMBRANCE OF THE HONORABLE JOHN NIMROD** in Illinois, and order all State facilities to fly their flags at half-staff from sunrise until sunset on this day in honor and remembrance of Sen. Nimrod, whose dedication and commitment to public service was unwavering.

Issued by the Governor January 9, 2009

Filed by the Secretary of State January 16, 2009.

**2009-9****Land Surveyors' Month**

WHEREAS, the profession of land surveying is one of the oldest technical services associated with our society. Each year, our complex civilization depends more and more on

## PROCLAMATIONS

land surveyors' skills and accuracy to determine property rights, method of design and construction; and

WHEREAS, the skills of George Washington, as a land surveyor, had a considerable influence on his job as Commander-in-Chief of our Revolutionary Forces, as the winning our nation's independence depended heavily on his planning of military operations and choice of selected battle sites; and

WHEREAS, more than 80 years later, when our country was threatened by a cruel division, another great President and former land surveyor, Abraham Lincoln, also used his land surveying skills to direct the war that preserved our nation; and

WHEREAS, it is important that we recognize the two "Land Surveyor Presidents," George Washington and Abraham Lincoln, during the Illinois Professional Land Surveyors Association 52<sup>nd</sup> Annual Conference, which will be held in Springfield, Illinois, February 11 – 14, 2009 as we celebrate the birthdays of each President:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2009 as **LAND SURVEYORS' MONTH** in Illinois in recognition of the important services provided by land surveyors, and to congratulate the Illinois Professional Land Surveyors Association for their years of service to the profession of land surveying.

Issued by the Governor January 12, 2009

Filed by the Secretary of State January 16, 2009.

**2009-10****Caribbean-American Heritage Month**

WHEREAS, emigration from the Caribbean region to the American Colonies began as early as 1619 with the arrival of indentured workers in Jamestown, Virginia; and

WHEREAS, much like the United States, the countries of the Caribbean faced obstacles of slavery and colonialism and struggled for independence; and

WHEREAS, the independence movements in many countries in the Caribbean during the 1960's and the consequential establishment of independent democratic countries in Caribbean strengthened ties between the region and the United States; and

WHEREAS, Alexander Hamilton, a founding father of the United States and the first Secretary of the Treasury, was born in the Caribbean; as also were Jean Baptiste Point du Sable, the pioneer settler of Chicago, Shirley Chisholm, the first African-

## PROCLAMATIONS

American Congresswoman and first African-American woman candidate for President, and Celia Cruz, the world renowned queen of salsa music; and

WHEREAS, the many other influential Caribbean-Americans in the history of the United States also include Colin Powell, the first African-American Secretary of State; Sidney Poitier, a Bahamian-American who was the first actor of African descent to receive the Academy Award for best actor in a leading role; Roberto Clemente, the first Latino inducted into the baseball hall of fame; and Al Roker, a meteorologist and television personality; and

WHEREAS, Caribbean-Americans have contributed greatly to education, fine arts, business, literature, journalism, sports, fashion, politics, government, the military, music, science, technology, and other areas in the United States; and

WHEREAS, Caribbean-Americans share their culture through carnivals, festivals, music, dance, film, and literature that enrich the cultural landscape of the United States; and

WHEREAS, the people of the Caribbean region share the hopes and aspirations of the people of the State of Illinois, and the United States, for peace and prosperity:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 2009 as **CARIBBEAN-AMERICAN HERITAGE MONTH** in Illinois, and encourage all citizens to learn about the wonderful contributions that Caribbean-Americans have made to our state, and to the nation as a whole.

Issued by the Governor January 13, 2009

Filed by the Secretary of State January 16, 2009.

**2009-11****Campus Fire Safety Month**

WHEREAS, fire education and prevention are vital to ensuring the safety of Illinoisans and Americans; and

WHEREAS, college students living on their own for the first time are particularly susceptible to the danger posed by fires; and

WHEREAS, since January of 2000, at least 129 children, students, and parents throughout the country have died in student housing fires, and almost 80 percent of those deaths

## PROCLAMATIONS

occurred in off-campus occupancies where the majority of students live unsupervised; and

WHEREAS, most fires can be avoided by practicing some simple commonsense behaviors and routines, such as: checking and turning off the oven and stove before going to sleep or leaving home, not overloading electrical circuits, safely stowing all dangerous and hazardous materials, keeping any electrical devices clear of water, checking and maintaining alarm and sprinkler systems, and noting the location of fire extinguishers to use in the event of an emergency; and

WHEREAS, education significantly helps minimize the risk of fire by raising awareness of those behaviors and routines, but many students do not receive effective fire safety education during their college career when they are generally most at risk:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2009 as **CAMPUS FIRE SAFETY MONTH** in Illinois to encourage educators to provide educational programs on the dangers and prevention of fire as students begin and return to college.

Issued by the Governor January 13, 2009

Filed by the Secretary of State January 16, 2009.

**2009-12****Helen Keller Deaf-Blind Awareness Week**

WHEREAS, Helen Keller was one of the most accomplished, respected, and renowned deaf-blind Americans; and

WHEREAS, in today's society, people who have dual-sensory loss, such as hearing or vision, should be able to have options to choose from when making important life-changing decisions; and

WHEREAS, it is in the interest of the State of Illinois to encourage the full participation of American citizens with multi-sensory disabilities in our economy by fostering the employment of, and promoting housing and recreational options for, people who are deaf-blind, thus maximizing their opportunities for a productive life in the community of their choice; and

WHEREAS, it is highly appropriate and necessary to publicize the abilities and potential of our fellow citizens who are deaf-blind, or severely vision and hearing impaired, and to

## PROCLAMATIONS

recognize Helen Keller as a guiding example of courage, hope, determination, and achievement for other individuals who are deaf-blind:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 21 – 27, 2009 as **HELEN KELLER DEAF-BLIND AWARENESS WEEK** in Illinois, and encourage all citizens to recognize the abilities and talent that people with vision and hearing disabilities can bring to our communities across this great State.

Issued by the Governor January 13, 2009

Filed by the Secretary of State January 16, 2009.

**2009-13****Martin Luther King, Jr. Day**

- WHEREAS, at the time of his death in 1968, Dr. Martin Luther King, Jr. was a leading advocate for racial equality, social justice, and universal peace; and
- WHEREAS, in the period between 1955 and 1968, Dr. King traveled more than six million miles and spoke on more than 2,500 occasions, appearing and speaking wherever there was injustice and civil unrest; and
- WHEREAS, during that time, Dr. King helped lead a successful bus boycott in Montgomery, Alabama to end segregation on city buses and improve treatment of passengers. King also led a massive civil rights protest in Birmingham, Alabama that drew worldwide attention to the appalling treatment of African Americans in the South; and
- WHEREAS, Dr. King is best known, however, for his "I Have A Dream" speech during the peaceful March on Washington demonstration for civil rights, in which he eloquently described a day when "all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, 'Free at last! Free at last! Thank God Almighty, we are free at last;'" and
- WHEREAS, in January of 2006, Dr. King's wife, Coretta Scott King, passed away. She was at Dr. King's side during his finest hours, including when he received the Nobel Peace Prize in 1964, and during his historic march for voting rights in Selma, Alabama in 1965. Along with her husband, she left behind a legacy of courage and compassion, and her message of equal rights and peace for all continues to make our world a better place; and

## PROCLAMATIONS

WHEREAS, were he still with us, January 15 would have been Dr. King's 80<sup>th</sup> birthday. Although it has been 41 years since Dr. King's death, his words and teachings still resonate today:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 19, 2009 as **MARTIN LUTHER KING, JR. DAY** in Illinois in honor and remembrance of Dr. King, whose dream of racial equality, social justice, and universal peace we embrace and strive to realize.

Issued by the Governor January 15, 2009

Filed by the Secretary of State January 16, 2009.

**2009-14****Pollinator Week**

WHEREAS, pollinator species such as birds and insects are essential partners of farmers and ranchers in producing much of our food supply; and

WHEREAS, pollination plays a vital role in the health of our national forests and grasslands, which provide forage, fish and wildlife, timber, water, mineral resources, and recreational opportunities as well as enhanced economic development opportunities for communities; and

WHEREAS, pollinator species provide significant environmental benefits that are necessary for maintaining healthy, biodiverse ecosystems; and

WHEREAS, the State of Illinois has managed wildlife habitats and public lands such as state forests and grasslands for decades; and

WHEREAS, the State of Illinois provides producers with conservation assistance to promote wise conservation stewardship, including the protection and maintenance of pollinators and their habitats on working lands and wildlands; and

WHEREAS, Illinois is proud to join with the United States Senate and the United States Department of Agriculture in declaring June 22 – 28, 2009, as National Pollinator Week, to coincide with an international celebration of pollinating animals including bees, birds, butterflies, bats, beetles, and others; and

WHEREAS, pollinators are vital to the ecosystems of Illinois, supporting terrestrial wildlife, providing healthy watershed, and providing significant benefits to the agriculture of our state:

## PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 22 – 28, 2009 as **POLLINATOR WEEK** in Illinois, and encourage all citizens to recognize the value and the fragility of the ecosystem services provided by pollinating species.

Issued by the Governor January 15, 2009  
Filed by the Secretary of State January 16, 2009.

**2009-15**  
**Guide Dog Month**

WHEREAS, guide dogs and the services they provide to the blind play a vital role in the vision impaired community and should be given the recognition they deserve; and

WHEREAS, guide dogs, and instruction in their use, are provided free of cost to those in need through many different organizations; and

WHEREAS, the Natural Balance Foundation is seeking to bring these organizations together in support of National Guide Dog Month and to raise awareness of what these animals mean to the people they serve; and

WHEREAS, Natural Balance has teamed up with Junior Blind of America, Prevent Blindness America, EyeCare America, PETCO, and independent pet stores throughout the country to create a campaign to support guide dogs through the creation of National Guide Dog Month; and

WHEREAS, as part of the partnership, Natural Balance Pet Foods will be donating a percentage of all sales during the month of May in support of guide dogs, while PETCO will be implementing a roundup program where customers are able to round up their total purchase with the difference donated to the program; and

WHEREAS, with nationwide support, Natural Balance, PETCO and independent pet stores across the country anticipate raising over 2 million dollars to support guide dog associations and the seeing impaired that are in desperate need of their services:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2009 as **GUIDE DOG MONTH** in Illinois, in support of this worthy fundraising effort, and in recognition of the important services provided by guide dogs.

Issued by the Governor January 15, 2009  
Filed by the Secretary of State January 16, 2009.

# ILLINOIS ADMINISTRATIVE CODE

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