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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 preemptory 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 2010

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2009	January 4, 2010
2	December 28, 2009	January 8, 2010
3	January 4, 2010	January 15, 2010
4	January 11, 2010	January 22, 2010
5	January 19, 2010	January 29, 2010
6	January 25, 2010	February 5, 2010
7	February 1, 2010	February 16, 2010
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23	May 24, 2010	June 4, 2010
24	June 1, 2010	June 11, 2010

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25	June 7, 2010	June 18, 2010
26	June 14, 2010	June 25, 2010
27	June 21, 2010	July 2, 2010
28	June 28, 2010	July 9, 2010
29	July 6, 2010	July 16, 2010
30	July 12, 2010	July 23, 2010
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32	July 26, 2010	August 6, 2010
33	August 2, 2010	August 13, 2010
34	August 9, 2010	August 20, 2010
35	August 16, 2010	August 27, 2010
36	August 23, 2010	September 3, 2010
37	August 30, 2010	September 10, 2010
38	September 7, 2010	September 17, 2010
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50	November 29, 2010	December 10, 2010
51	December 6, 2010	December 17, 2010
52	December 13, 2010	December 27, 2010
53	December 20, 2010	January 3, 2011

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Alternate Fuels Program
- 2) Code Citation: 35 Ill. Adm. Code 275
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
275.100	Amendment
275.110	Amendment
275.120	Amendment
275.130	Amendment
275.140	Amendment
275.200	Amendment
275.210	Amendment
275.215	New
275.220	Amendment
275.230	Amendment
275.240	Amendment
275.250	Amendment
275.APPENDIX A	Repeal
- 4) Statutory Authority: Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 120/30]
- 5) A Complete Description of the Subjects and Issues Involved: The proposal would amend Part 275 to reflect amendments to Sections 10 and 30 of the Alternate Fuels Act (Act) enacted in 2003 (PA 92-858, Sections 10 and 30), 2005 (PA 94-62, Sections 10 and 30), 2007 (PA 94-1079, Section 30), and 2009 (PA 96-537, Section 30). Amendments to these Sections of the Act eliminated defined years in which applicants were permitted to apply for rebates, expanded the definition of alternate fuel and domestic renewable fuel, added the definition of biodiesel fuel, clarified that owners of vehicles using domestic renewable fuel or alternate fuel may receive a fuel cost differential rebate, and added an exception allowing large vehicles purchased outside of Illinois to be eligible, in certain circumstances, to apply for a rebate. In addition, the 2009 amendment to the Act changed the deadline for submitting alternate fuel vehicle and conversion cost rebates.

The proposed amendments to Part 275 expand the rebate program to vehicles that operate on hydrogen fuel and biodiesel fuel and add various new definitions. The proposed amendments also clarify that electric vehicles do not include those that are on-board electric generation. The proposed amendments allow rebates to be issued in future years as funds are available. In addition, the proposed amendments change the deadline for

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submitting fuel cost rebates and also change the deadline for submitting alternate fuel vehicle and conversion cost rebates. The proposed amendments clarify that vehicles operating on domestic renewable fuel or alternate fuel may be eligible for a fuel cost differential rebate and add a fill-up and minimum gallon usage requirement for this rebate. The proposed amendments allow large vehicles to be purchased outside of Illinois yet still qualify for rebates. The proposed amendments eliminate Appendix A regarding fuel cost differential rebate amounts, which have been relocated to Section 275.240. The proposed amendments also clarify rebate amounts for alternate fuel vehicles without conventional counterparts. Finally, the proposed amendments relocate, update, and clarify other provisions in the Part.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written public comments on this proposal for a period of 45 days after the date of publication in the Illinois Register. Comments should reference the Alternate Fuels Program and be addressed to:

Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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217/782-5544

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will impact small businesses, small municipalities and not for profit corporations to the extent that if they apply for a rebate through this program they will utilize this Part. This Part will generally benefit these entities by providing rebates for purchasing alternate fuel vehicles, converting conventional vehicles to alternate fuel capability, or using alternate fuel or domestic renewable fuel if the criteria and requirements of the program are met.
- B) Reporting, bookkeeping or other procedures required for compliance: Yes. The Part requires applicants for rebates to maintain records of purchases of alternate fuel or domestic renewable fuel, or records of the purchase of an alternate fuel vehicle or conversion of a conventional vehicle to alternate fuel capability, depending on the type of rebate sought. To apply for a rebate, the Part requires applicants to submit these records along with other required documentation as specified in Section 275.230.
- C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 275
ALTERNATE FUELS PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
275.100	Purpose
275.110	Other Definitions
275.120	Definitions
275.130	Abbreviations <u>and Acronyms</u>
275.140	Incorporations by Reference

SUBPART B: REBATES

Section	
275.200	<u>General Applicant and Vehicle Eligibility</u>
275.210	<u>Conversion Cost Rebate Eligibility</u> Alternate Fuel Vehicles and Rebates
<u>275.215</u>	<u>OEM Differential Cost Rebate Eligibility</u>
275.220	Fuel Cost Differential Rebate <u>Eligibility</u>
275.230	Applications
275.240	<u>Rebate Priorities and Rebate Amounts</u> Agency Action
275.250	Appeal of Agency <u>Decision</u> Denial or Modification

275.APPENDIX A Annual Fuel Cost Differential For LDVs (Repealed)

AUTHORITY: Implementing and authorized by Sections 15 and 30 of the Alternate Fuels Act (415 ILCS 120/15 and 30).

SOURCE: Adopted at 21 Ill. Reg. 7150, effective May 29, 1997; amended at 23 Ill. Reg. 11916, effective September 13, 1999; amended at 25 Ill. Reg. 6877, effective May 18, 2001; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 275.100 Purpose

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This Part establishes procedures for applying for an original equipment manufacture (OEM) differential cost~~alternate fuel vehicle~~ rebate, conversion cost rebate, or ~~domestic renewable fuel cost differential~~ rebate as authorized by the Alternate Fuels Act [415 ILCS 120]. ~~Applications for a conversion cost rebate or OEM differential cost rebate may be submitted for calendar years 1997, 1998, 1999, 2000, 2001, and 2002. Applications for a fuel cost differential rebate may be submitted for calendar years 1997, 1998, 1999, 2000, and 2001, and pre-approved rebates may also be given in fiscal years 2002 and 2003, depending on fund availability.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.110 Other Definitions

Unless otherwise defined in Section 275.120~~herein~~ and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall have the meanings specified by ~~35 Ill. Adm. Code 241.102 and Section 10 of the Alternate Fuels Act [415 ILCS 120/10]. The definitions in Section 275.120 of this Subpart are applicable only to the provisions of this Part.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.120 Definitions

"Act" means the Alternate Fuels Act [415 ILCS 120].

"Agency" means the Illinois Environmental Protection Agency.

"Alternate fuel" means liquefied petroleum gas (propane), natural gas, E85 blend fuel, hydrogen fuel, electricity when used as the primary external fuel source to power the vehicle excluding on-board electric generation, fuel composed of a minimum 80% ethanol or 80% bio-based methanol, or fuels that are at least 80% derived from 80% biomass, ~~or electricity~~.

"Alternate fuel vehicle" means any motor vehicle or engine that ~~meets a federal or CARB emission standard, or meets the federal anti-tampering provisions pursuant to USEPA Memorandum 1A, incorporated by reference at Section 275.140 of this Subpart~~, is capable of using an alternate fuel, and is operated in the State of Illinois.

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"Base retail price" means the manufacturer's suggested retail price excluding options, upgrades, and applicable taxes, title, license, document fee, destination charge, and other add-ons or dealer-related charges.

"Biodiesel fuel" means a renewable fuel conforming to the industry standard ASTM D 6751, incorporated by reference in Section 275.140 of this Subpart.

"Conventional", when used to modify the word "vehicle", "engine", or "fuel", means gasoline or diesel or any reformulations of those fuels. [415 ILCS 120/10]

"Conversion Cost Rebate" means a rebate issued to offset, in part, the cost of converting a conventional vehicle to alternate fuel capability.

"Covered area" means the counties of Cook, DuPage, Kane, Lake, McHenry, and Will and those portions of Grundy County and Kendall County that are included in the following zip code areas, as designated by the U.S. Postal Service on August 7, 1998: 60416, 60444, 60447, 60450, 60481, 60538, and 60543.

"Domestic renewable fuel" means a fuel, produced in the United States or its territories, composed of a minimum 80% ethanol or 80% bio-based methanol, minimum 20% biodiesel fuel, or other fuels derived from at least 80% biomass.

"E85 blend fuel" means fuel that contains 85% ethanol and 15% gasoline. [415 ILCS 120/10] or any wintertime blend of at least 70% ethanol.

~~"Federal low emission standard" means the low emission vehicle (LEV), ultra-low emission vehicle (ULEV), zero emission vehicle (ZEV), or inherently low emission vehicle (HLEV) standard, as set forth in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.~~

"Fuel cost differential rebate" means a rebate issued to offset, in part, the increased cost of using an alternate fuel or domestic renewable fuel compared to conventional fuel.

"Gross Vehicle Weight Rating" or ~~"(GVWR)"~~ means the total vehicle weight, including the maximum load, as designated by the original equipment manufacturer.

"Heavy-duty vehicle" or ~~"(HDV)"~~ means a motor vehicle whose GVWR is more

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than 8,500 lbs.

~~"Inherently Low Emission Vehicle (ILEV)" means any LDV certified to the applicable ILEV evaporative emission standard found in 40 CFR 88, incorporated by reference at Section 275.140 of this Subpart, or any HDV with an engine certified to the applicable ILEV standard. No dual fueled or flexible fueled vehicle shall be considered an ILEV unless it is certified to the applicable standard(s) (i.e., LEV, ULEV or ZEV) for such weight class on all fuel types for which it is designed to operate.~~

~~"Light duty vehicle (LDV)" means a motor vehicle whose GVWR is no more than 8,500 lbs.~~

"Location" means:

a parcel of real property or

multiple, contiguous parcels of real property that are separated by private roadways, public roadways, or private or public rights-of-way and are owned, operated, leased, or under ~~the~~ common control of one party. [415 ILCS 120/10]

~~"Low Emission Vehicle (LEV)" means any LDV, or any HDV with an engine certified to the applicable federal low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.~~

~~"Motor vehicle" means a car, truck, van, bus, motorcycle, or other similar on-road vehicle that can be legally driven on all public roadways and all highways in Illinois for the purpose of transporting passengers or cargo. Types of vehicles that are designed to be used primarily as off-road vehicles or equipment, including, but not limited to, vehicles and equipment used for agriculture, construction, recreation or landscaping, and golf carts that are designed and manufactured for operation on a golf course or similar vehicles that resemble golf carts, are not motor vehicles for the purposes of this Part.~~

~~"OEM differential cost rebate" means a rebate issued to offset, in part, the increased cost of purchasing an OEM alternate fuel vehicle.~~

"Owner" means any person who has legal or equitable title to a motor vehicle.

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"Person" means any individual, business, corporation, organization, partnership, firm, association, trust, estate, public or private institution, group, ~~state~~, municipality, political subdivision of a state, any agency, department, or instrumentality of the United States, and any officer, agent or employee of any of the above. A car dealer or car dealership is not a person for the purposes of this Part.

"Private fueling operation" means any activity ~~in which~~where alternate fuel or domestic renewable fuel is transferred from a stationary or mobile source to a fuel storage system used to provide fuel to the engine or motor of that vehicle where ~~the~~such fuel is not available to the public.

"Proof of payment" means a copy of a cancelled check, an invoice or bill showing that the applicable amount has been paid or that no remaining balance exists, or other appropriate proof, acceptable to the Agency, that payment has been made for the related purchase~~in the amount of the rebate requested.~~

"Public fueling operation" means any site where alternate fuel or domestic renewable fuel is transferred from a stationary source to a fuel storage system used to provide fuel to the engine or motor of that vehicle, and is a retail operation.

"Retail" means to sell directly to the ultimate consumer in small quantities (e.g., gallons) and deliver fuel to a fuel storage system used to provide fuel to the engine or motor of a vehicle.

"Small fleet owner" means a person who owns or operates no more than 30 motor vehicles and employs 100 or fewer employees.

~~"Ultra Low Emission Vehicle (ULEV)" means any LDV, or any HDV with an engine certified to the applicable federal ultra low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.~~

~~"Zero Emission Vehicle (ZEV)" means any LDV, or any HDV certified to the applicable federal zero emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 275.130 Abbreviations and Acronyms

Agency	Illinois Environmental Protection Agency
ASTM	ASTM International
CARB	California Air Resources Board
FEIN	Federal Employer Identification Number
GVWR	gross vehicle weight rating
HDV	heavy-duty vehicle
ILEV	inherently low emission vehicle
LDV	light-duty vehicle
LEV	low emission vehicle
MY	model year
mi/yr	miles driven per year
OEM	original equipment manufacturer
ULEV	ultra low emission vehicle
USEPA	United States Environmental Protection Agency
VEC	vehicle emission configuration
VIN	vehicle identification number
ZEV	zero emission vehicle

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.140 Incorporations by Reference

The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- a) ~~Control of Air Pollution from Mobile Sources, 40 CFR 85, subparts F and V, as amended on July 13, 2005 (70 Fed. Reg. 40432) Clean Fuel Vehicles, 40 CFR 88, as amended on April 23, 1998 (63 Fed. Reg. 20103).~~
- b) Control of Emissions ~~from~~From New and In-Use Highway Vehicles and Engines, 40 CFR 86, as amended on ~~November 25, 2009~~December 22, 1998 (7463 Fed. Reg. ~~61537~~70681).
- c) ~~ASTM D 6751, ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken PA 19428-2959 (2009) Mobile Source Enforcement Memorandum~~

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~~No. 1A: Interim Tampering Enforcement Policy, USEPA (June 25, 1974), as amended on June 16, 1998 (63 Fed. Reg. 32878).~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: REBATES

Section 275.200 General Applicant and Vehicle Eligibility

- a) Owners of alternate fuel vehicles may apply for a rebate under this Part ~~if the vehicle meets~~by meeting the eligibility requirements of ~~either~~ subsection (a)(1), (a)(2) or (a)(3) of this Section and by submitting the information required by Section 275.230 of this Subpart to the Agency:
- 1) Converting a conventional vehicle to an alternate fuel vehicle in accordance with the requirements of Section 275.210~~(a)~~ of this Subpart;
 - 2) Purchasing an ~~alternate fuel~~-OEM alternate fuel vehicle or engine in accordance with the requirements of Section ~~275.215~~275.210~~(b)~~ of this Subpart; or
 - 3) Purchasing an alternate fuel or a-domestic renewable fuel in accordance with the requirements of Section 275.220 of this Subpart.
- b) Notwithstanding subsection (a) of this Section, vehicles owned by the federal government or vehicles registered or primarily operated in a state outside of Illinois are not eligible for rebates offered under this Part.~~alternate fuel vehicles owned by the federal government or registered or operated in a state outside of Illinois are not eligible for rebates offered under this Part. [415-ILCS 120/30(d)]~~
- c) Rebates will be ~~issued~~given in accordance with ~~the criteria in~~ Section 275.240 of this Subpart. The total amount of all rebates issued in the Alternate Fuel Program for a given calendar year will be limited to an amount not exceeding the funds available in the Alternate Fuel Fund for that calendar year.
- d) A vehicle is eligible for only one type of rebate. Once a vehicle receives a rebate, it is no longer eligible to receive a rebate during its lifetime, except pursuant to Section 275.220(b). A subsequent owner of a vehicle is not eligible to receive a rebate if the vehicle has previously received a rebate in accordance with this Part.

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- e) An owner of alternate fuel vehicles or vehicles using domestic renewable fuel may receive rebates for no more than 150 vehicles per location and no more than 300 vehicles total for all locations.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.210 Conversion Cost Rebate Eligibility~~Alternate Fuel Vehicles and Rebates~~

The owner of a motor vehicle is eligible to apply for a conversion cost rebate if the requirements of this Section and Section 275.200 are met.~~A motor vehicle is an alternate fuel vehicle for the purposes of this Part if it meets the requirements of either subsection (a) or (b), and subsection (e) or (d) of this Section:~~

- a) ~~Conversion of a conventional vehicle to an alternate fuel vehicle: 1) The A~~
conventional motor vehicle ~~that~~ was not certified to a federal emission standard by the manufacturer as an alternate fuel vehicle, but is subsequently converted in accordance with the requirements of ~~subsections~~subsection (be), or (cd), and (d) of this Section and is ~~operated as~~ an alternate fuel vehicle; ~~and 2) Conversion of a conventional vehicle to alternate fuel capability must take place in Illinois. [415 ILCS 120/30(a)]~~
- b) The conversion to alternate fuel capability took place in Illinois;
- c) The conversion system installed on the vehicle is the latest model in current production for that particular vehicle make, model, model year and engine at the time of conversion, and, unless not required by federal law, is tested and certified by either USEPA or CARB; and
- d) The conversion system installed on the vehicle has a valid "Certificate of Conformity" issued by USEPA or a valid "Retrofit System Certification" issued by CARB, unless not required by federal law.
- b) ~~Purchase of an OEM alternate fuel vehicle or engine:~~
- 1) ~~The alternate fuel OEM vehicle or engine, when operated using an alternate fuel, is certified to meet the requirements of subsection (e) or (d) of this Section; and~~

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- 2) ~~A new OEM vehicle or engine must be purchased in Illinois and must either be an alternate fuel vehicle or used in an alternate fuel vehicle. [415 ILCS 120/30(b)]~~
- e) ~~An eligible light-duty alternate fuel vehicle must meet the requirements of either subsection (c)(1)(A), (B), or (C), or (c)(2)(A) or (B), of this Section, and subsection (c)(3) of this Section:~~
- 1) ~~The conversion systems must be the latest model in current production and shall have been tested and certified by either:~~
- A) ~~USEPA;~~
- B) ~~CARB; or~~
- C) ~~A conversion system manufacturer using USEPA Memorandum 1A for the specific engine families, incorporated by reference in Section 275.140 of this Part; or~~
- 2) ~~OEM vehicles must be certified by either:~~
- A) ~~USEPA; or~~
- B) ~~CARB; and~~
- 3) ~~Notwithstanding subsections (c)(1) and (c)(2) of this Section, an alternate fuel LDV vehicle must meet or exceed emission standards applicable for the vehicle's model year and weight class. [415 ILCS 120/20]~~
- d) ~~An eligible heavy-duty alternate fuel vehicle must meet the requirements of subsections (d)(1) or (d)(2), and (d)(3) of this Section:~~
- 1) ~~The conversion system must be the latest model in current production and shall have been tested and certified by USEPA; or~~
- 2) ~~The OEM vehicle must be certified by USEPA; and~~
- 3) ~~Notwithstanding the above, engines used in alternate fuel vehicles greater than 8500 pounds GVWR, whether new or remanufactured, shall meet the~~

ENVIRONMENTAL PROTECTION AGENCY

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appropriate United States Environmental Protection Agency emissions standards at the time of manufacture, and if converted, shall meet the standards in effect at the time of conversion. [415 ILCS 120/20]

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.215 OEM Differential Cost Rebate Eligibility

The owner of a motor vehicle or engine is eligible to apply for an OEM differential cost rebate if the requirements of this Section and Section 275.200 are met.

- a) A new OEM vehicle or engine must be purchased in Illinois and must either be an alternate fuel vehicle or used in an alternate fuel vehicle. [415 ILCS 120/30(b)] For an HDV only, if the same or comparable OEM alternate fuel vehicle or engine is not available for purchase in Illinois, then it may be purchased from a dealership or similar vendor outside of Illinois;
- b) The OEM alternate fuel vehicle or engine has the capability to use alternate fuels; and
- c) The OEM alternate fuel vehicle or engine is certified by USEPA to meet the appropriate emission standards in effect at the time of manufacture.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 275.220 Fuel Cost Differential Rebate Eligibility

- a) An owner may apply for a fuel cost differential rebate, if the owner:
 - 1) Owns an alternate fuel vehicle(s) that meets the requirements in Section 275.210 or 275.215(a) or (b) of this Subpart or owns a motor vehicle that operates on biodiesel fuel, and the ~~alternate fuel~~ vehicle is registered and operated in the State of Illinois; ~~and~~
 - 2) Has purchased an alternate fuel or domestic renewable fuel to fuel thean alternate fuel vehicle(s) that is more expensive to use, factoring in the reduction in energy content, as compared to using conventional fuel;-

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- 3) Has purchased an alternate fuel or domestic renewable fuel that was used in the vehicle for at least 50% of either the miles driven annually or fill-ups averaged throughout a calendar year. A "fill-up" means refueling a vehicle by at least one-third of its fuel tank capacity. The Agency will determine whether to utilize miles or fill-ups in determining eligibility; and
 - 4) Uses at least 250 gallons of alternate fuel or domestic renewable fuel in the vehicle in the calendar year for which a rebate is submitted.
- b) ~~As part of the application required pursuant to Section 275.230(d) of this Subpart, the owner must certify to the following:~~
- 1) ~~The type of alternate fuel vehicle (HDV or LDV);~~
 - 2) ~~The type of domestic renewable fuel on which the vehicle operates;~~
 - 3) ~~That the domestic renewable fuel was used in the vehicle for over one-half of the miles driven annually, and the number of miles driven; and~~
 - 4) ~~That the costs were incurred.~~
- be) An owner of a vehicle approved for a rebate pursuant to Section 275.240 of this Subpart is eligible to receive the rebate for up to two more consecutive years after the year of the initial approved application, for a total of three~~3~~ consecutive years. To receive the rebate in each of the three consecutive years, the eligibility requirements of subsection (a) of this Section must be met, and the owner must:
- 1) Submit the documentation required pursuant to Section 275.230(a); and (d) and (e) of this Subpart for each qualifying year. This documentation must be submitted in accordance with Section 275.230(e) of this Subpart;
 - 2) Continue to own the ~~alternate fuel vehicle and use domestic renewable fuel for more than one-half of the miles driven.~~ *If the alternate fuel vehicle ceases to be registered to the original applicant owner, a prorated installment shall be paid to the owner or the owner's designee and the remainder of the rebate shall be canceled [415 ILCS 120/30(c)]* ~~or if domestic renewable fuel is used for less than one-half of the miles driven in the applicable calendar year, the rebate will be canceled for that year;~~

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~~and-~~

3) Maintain records of alternate fuel or domestic renewable fuel purchases for the applicable years. Records must include:

A) Receipts or invoices of bulk fuel purchases indicating the type of alternate fuel or domestic renewable fuel and the number of gallons or equivalent gallons purchased;

B) Receipts of fuel purchases from a retail fuel operation indicating the type of alternate fuel or domestic renewable fuel and the number of gallons or equivalent gallons purchased, or other documentation acceptable to the Agency; or

C) BillsBill for fuels provided through metered service that itemize the cost of the fuel for the vehicle (e.g., electricity, natural gas).

~~d) The amount of the annual rebate shall be determined as follows:~~

~~1) For LDVs using methanol or ethanol fuels, the amount listed in Appendix A of this Part.~~

~~2) For LDVs using biomass fuels and any HDV using domestic renewable fuels, the formula below, but in no case will a rebate for the three year period exceed \$4,000:~~

$$\left(\frac{mi / yr \times f_1 / gal}{mi / gal_1} - \frac{mi / yr \times f_2 / gal}{mi / gal_2} \right) \times (.80)$$

~~f_1/gal = price per gallon in dollars of the domestic renewable fuel~~

~~f_2/gal = price per gallon in dollars of the conventional fuel~~

~~mi/gal_1 = number of miles to the gallon on domestic renewable fuel~~

~~mi/gal_2 = number of miles to the gallon on the conventional fuel~~

~~mi/yr = number of miles driven in the applicable calendar year~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.230 Applications

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To apply for a rebate, owners of alternate fuel vehicles or motor vehicles that operate on biodiesel fuel must provide the Agency with the information listed in subsections (a) and (e) of this Section and the information from ~~either~~ subsection (b), (c) or (d) of this Section.

- a) Applications for a conversion cost, OEM differential cost, or fuel cost differential rebate must include the following information for each vehicle:
- 1) ~~For each alternate fuel vehicle: A)~~—The make, model and model year of original manufacture;
 - ~~2B)~~ The date of vehicle purchase~~acquisition~~ or conversion;
 - ~~3C)~~ The vehicle identification number (VIN);
 - ~~4D)~~ The license plate number and the state of registration;
 - ~~E) The emission standard(s) to which the alternate fuel vehicle is certified (e.g., conventional, LEV, ULEV, ZEV or ILEV) and the certifying agent (e.g., USEPA, CARB, or the Conversion System Manufacturer to Memorandum No. 1A, incorporated by reference in Section 275.140 of this Part);~~
 - ~~5F)~~ The type of alternate fuel or domestic renewable fuel used in the vehicle~~for which the vehicle is certified to meet the requirements of Section 275.210(c) or (d) of this Subpart;~~
 - ~~G) For LDVs, the 8-character alpha-numeric bar-coded vehicle emission configuration number assigned by the manufacturer and imprinted on vehicles manufactured on or after MY 1993;~~
 - ~~H) The GVWR of the vehicle; and~~
 - ~~6I)~~ Whether the vehicle will be primarily fueled at a public or a private fueling operation;
 - 2) ~~The amount of the rebate being requested and documentation as required by either subsection (b), (c) or (d) of this Section, demonstrating that the costs were actually incurred and how the rebate amount was calculated.~~

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- 7) Proof of payment as set forth in subsection (b), (c), or (d) of this Section;
- 8) The name, mailing address, phone number, and, if available, email address of the owner;
- 9) For an individual, social security number;
- 10) If the applicant is not an individual:
- A) The name of the entity, mailing address and location of records if they are different from the information reported in subsection (a)(8) of this Section;
- B) The name of the primary contact person, mailing address, phone number, and, if available, email address;
- C) The number of employees; and
- D) The Federal Employer Identification Number (FEIN);
- 11) The number of vehicles owned by the applicant;
- 12) The primary locations of the vehicles;
- 13) The name, address, and social security number of the payee for the rebate; and
- 14) The signature of the owner, printed name, and date signed.
- b) Applicants for an OEM ~~differential cost~~alternate fuel vehicle rebate, in addition to the information required by ~~subsections~~subsections (a) ~~and (e)~~ of this Section, must provide the following:
- 1) A copy of the sales invoice ~~or sales contract;~~showing the purchase price of the alternate fuel vehicle; and
- 2) Documentation, such as the window sticker, from the retailer ~~indicating the retail cost or sticker price of a conventional fuel vehicle clearly showing the incremental cost or upcharge of the vehicle for having an~~

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alternate fuel engine and being capable of operating on an alternate fuel as compared to that is the same make, model, equipment and year of its conventional counterpart. For OEM alternate fuel vehicles that do not have a conventional counterpart, the applicant must provide documentation, such as the window sticker, from the retailer indicating the base retail price of the OEM alternate fuel vehicle as the alternate fuel vehicle or engine purchased for which a rebate is being sought under this Part; and

3) Proof of payment; and-

4) In accordance with Section 275.215(a), for HDVs purchased outside of Illinois, the GVWR.

c) Applicants for a conversion cost~~alternate fuel vehicle~~ rebate, in addition to the information required by subsections~~subsections~~ (a) and (e)~~and (e)~~ of this Section, must provide:

1) The name and address of the persons~~person(s)~~ performing the conversion;

2) A statement that the motor vehicle was converted in accordance with the applicable requirements of Section 275.210~~(a)~~ of this Subpart and the following, as applicable;:

A) Whether USEPA or CARB certified the conversion system for that particular make, model, model year and engine; and

B) If the conversion system is certified by:

i) USEPA, a copy of the USEPA "Certificate of Conformity" specific for the conversion system installed on that particular make, model, model year and engine; or

ii) CARB, a copy of the "Retrofit System Certification" specific for the conversion system installed on that particular make, model, model year and engine;

3) A copy of the conversion invoices or receipts~~invoice~~ showing the cost of the conversion of the vehicle to alternate fuel capability;~~and~~

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4) Proof of payment; ~~and;~~

~~5) The name of the conversion system manufacturer, if applicable.~~

d) Applicants for a fuel cost differential rebate, in addition to the information required in ~~subsections~~ subsections (a) ~~and (e)~~ of this Section, must provide in each qualifying rebate application year:

~~1) The number of gallons or equivalent gallons of alternate fuel or domestic renewable fuel purchased during the calendar year;~~

~~1) For the first year:~~

~~A) For LDVs using methanol or ethanol, the name of the primary fuel supplier(s), the number of gallons of domestic renewable fuel purchased, and number of miles driven that calendar year; and~~

~~B) For alternate fuel LDVs using biomass fuels and any alternate fuel HDV, the name of the primary fuel supplier(s), the name of the domestic renewable fuel, the number of miles to the gallon for the domestic renewable fuel, the number of miles to the gallon for the conventional fuel, the cost per gallon of the domestic renewable fuel, the cost per gallon of the conventional fuel, and the number of miles driven that calendar year; and~~

~~2) The number of miles the vehicle was driven during the calendar year;~~

~~2) For the second and third years, the owner must annually certify, once approved, that the owner still owns and operates the alternate fuel vehicle, has purchased domestic renewable fuel, and that domestic renewable fuel was used for more than one-half of the miles driven in that calendar year. The statement must be signed by the owner, and must be submitted to the Agency no more than 30 days after the anniversary date of the rebate; and~~

3) Proof of payment, including:-

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- A) Receipts or invoices of bulk fuel purchases indicating the type of alternate fuel or domestic renewable fuel and the number of gallons or equivalent gallons purchased;
- B) Receipts of fuel purchases from a retail fuel operation indicating the type of alternate fuel or domestic renewable fuel and the number of gallons or equivalent gallons purchased, or other documentation acceptable to the Agency; or
- C) Bills for fuels provided through metered service that itemize the cost of the fuel for the vehicle (e.g., electricity, natural gas);
- 4) When applying for a domestic renewable fuel or alternate fuel rebate, except E85 blend fuel, minimum 80% ethanol fuel, or minimum 80% bio-based methanol fuel, the applicant must provide the average incremental cost of the domestic renewable fuel or alternate fuel per gallon above the cost of the conventional fuel during the calendar year;
- 5) The type of vehicle; and
- 6) The name of the primary fuel suppliers.
- e) ~~In addition to the information required in subsection (a) of this Section and either subsection (b), (c) or (d) of this Section, all applications submitted to the Agency must include the following:~~
 - 1) ~~The name, address, and phone number of the owner;~~
 - 2) ~~If the applicant is not an individual:~~
 - A) ~~The name of the entity, mailing address and location of records if they are different from the information reported in subsection (e)(1) of this Section;~~
 - B) ~~The number of employees; and~~
 - C) ~~The FEIN number;~~
 - 3) ~~The number of motor vehicles owned;~~

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- 4) ~~The primary location(s) of the vehicles;~~
- 5) ~~The name, address and social security number of the payee for the rebate; and~~
- 6) ~~The signature of the owner.~~
- ef) Applications for conversion or OEM differential costs that meet the requirements of this Section and either Section 275.210 or 275.215 of this Subpart, as applicable, must be submitted within 12 months after the month in which the vehicle conversion or vehicle purchase took place, as applicable. Applications for alternate fuel or domestic renewable fuel costs incurred during a calendar ~~year~~ years 1997, 1998, 1999, 2000, 2001, and 2002 that meet the requirements of this Section and Section ~~275.220~~ 275.210 of this Subpart must be submitted by ~~December 31 of that calendar year, but if the cost was incurred in December then the application must be submitted by~~ January 31 of the following year. ~~Applications for costs incurred during calendar years 1997, 1998, 1999, 2000, and 2001 that meet the requirements of this Section and Section 275.220 of this Subpart must be submitted by December 31 of that calendar year, but if the cost was incurred in December then the application must be submitted by January 31 of the following year.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.240 Rebate Priorities and Rebate Amounts ~~Agency Action~~

- a) The Agency shall review and approve applications that meet the requirements of Section 275.230 of this Subpart ~~in June and December of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003~~, consistent with fund availability and prioritization as set forth in subsections (b) and; (c) ~~and (d)~~ of this Section.
- b) In the event of insufficient fund availability, the ~~The~~ Agency may ~~shall~~ establish priority classes for rebate applications ~~for rebates~~ in the following order:
- 1) Vehicles of small fleet owners located in the covered area that refuel at a public fueling operation;
 - 2) Vehicles of small fleet owners located outside of the covered area that

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refuel at a public fueling operation;

- 3) Other vehicles located in the covered area that refuel at a public fueling operation;
- 4) Other vehicles located outside of the covered area that refuel at a public fueling operation;
- 5) Vehicles of small fleet owners located in the covered area that refuel at a private fueling operation;
- 6) Vehicles of small fleet owners located outside of the covered area that refuel at a private fueling operation;
- 7) Other vehicles located in the covered area that refuel at a private fueling operation;
- 8) Other vehicles located outside of the covered area that refuel at a private fueling operation and all other vehicles.

~~e) In addition to the priorities in subsection (b) of this Section, the Agency shall further sub-prioritize applications within a priority class by giving an alternate fuel vehicle that is federally certified or CARB certified to an ILEV, LEV, ULEV or ZEV emission standard higher priority within their priority class as determined by subsection (b) of this Section.~~

cd) In addition to the priorities in ~~subsections~~ subsections (b) and (e) of this Section, the Agency ~~may~~ shall further prioritize applications within a ~~sub~~-priority class as determined by subsection (b) of this Section by giving applications priority in the order in which the application was received.

de) ~~Rebate~~ Notwithstanding subsections (b) and (e) of this Section, ~~rebate~~ amounts shall be ~~calculated as follows~~ limited by the following criteria:

- 1) The amount of the OEM differential cost rebate shall be determined as follows; however, the rebate amount is limited to a maximum of \$4,000 per vehicle:

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- A) The rebate amount shall be 80% of the incremental cost of the engine and fuel system in the alternate fuel vehicle as compared to the cost of the conventional counterpart engine and fuel system in the same make, model, model year and equipment vehicle.
- B) For alternate fuel vehicles other than those covered by subsection (d)(1)(A) of this Section, the amount of the rebate shall be 10% of the base retail price of the alternate fuel vehicle.
- 2) The amount of the conversion cost rebate shall be 80% of the cost of converting a conventional vehicle to an alternate fuel vehicle, excluding applicable taxes and miscellaneous charges such as shipping and handling. The rebate amount is limited to a maximum of \$4,000 per vehicle.
- 3) The amount of the fuel cost differential rebate shall be determined as follows:
- A) For vehicles using E85 blend fuel or minimum 80% ethanol, the rebate amount shall be:
- i) If the vehicle travels more than 17,500 miles in the calendar year, \$450; or
- ii) If the vehicle travels 17,500 miles or less in the calendar year, \$340.
- B) For vehicles using minimum 80% bio-based methanol fuel, the rebate amount shall be:
- i) If the vehicle travels more than 17,500 miles in the calendar year, \$525; or
- ii) If the vehicle travels 17,500 miles or less in the calendar year, \$390.
- C) For vehicles using alternate fuels or domestic renewable fuels other than those listed in subsection (d)(3)(A) or (d)(3)(B) of this Section, the rebate amount shall be calculated using the following equation (factoring in the average incremental cost per gallon (or

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per gallon-equivalent) of using the fuel versus a conventional fuel, the number of gallons used in the eligible vehicle during the calendar year, and the reduction in energy content for the fuel):

$$\left(\frac{mi / yr \times f_1 / gal}{mi / gal_1} - \frac{mi / yr \times f_2 / gal}{mi / gal_2} \right) \times .80$$

where:

f_1/gal = price per gallon in dollars of the domestic renewable fuel or alternate fuel

f_2/gal = price per gallon in dollars of the conventional fuel

mi/gal_1 = number of miles to the gallon on the domestic renewable fuel or alternate fuel

mi/gal_2 = number of miles to the gallon on the conventional fuel

mi/yr = number of miles driven in the applicable calendar year

D) Alternate fuel and domestic renewable fuel rebate amounts are limited to a maximum of \$4,000 over a consecutive three-year period.

~~1) An owner may receive only one type of rebate per alternate fuel vehicle either for the conversion, OEM, or the fuel cost differential. An alternate fuel vehicle is eligible for only one rebate.~~

~~2) An owner of an alternate fuel vehicle may receive rebates for no more than 150 alternate fuel vehicles per location and no more than 300 alternate fuel vehicles total for all locations.~~

~~3) Rebates for OEMs or conversions of conventional vehicles are limited to \$4,000 per vehicle or 80% of the cost of either subsection (e)(3)(A) or (e)(3)(B) of this Section, whichever is less:~~

~~A) The cost of converting a conventional vehicle to an alternate fuel vehicle; or~~

~~B) The additional cost of purchasing an OEM alternate fuel vehicle or engine versus a conventional vehicle or engine.~~

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- 4) ~~Rebates for the purchase of domestic renewable fuels will be determined in accordance with Section 275.220(d) of this Subpart, but in no case will a rebate for the three year period exceed \$4,000.~~
- ef) Rebates in any period will be limited to the funds available in the Alternate Fuel Fund for the applicable period.
- fg) The Agency shall notify owners ~~if of whether~~ their application for a rebate has been ~~approved or~~ held over to ~~the next rebate issuance a subsequent~~ period ~~due to insufficient funds in the Alternate Fuel Fund within 90 days after the end of the applicable period~~. Applications held over retain their priority as determined by subsections (b) ~~and~~; (c) ~~and (d)~~ of this Section.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 275.250 Appeal of Agency Decision ~~Denial or Modification~~

- a) An applicant whose application for a rebate has been denied by the Agency, or ~~who is contesting the determination of the amount of the~~ whose rebate ~~is less than the amount for which the applicant applied~~, may appeal the denial or ~~improper~~ rebate ~~amount~~ ~~modification~~ by filing a notice of appeal with the Director of the Agency.
- b) The notice of appeal must:
- 1) Be made in writing;
 - 2) Be clearly marked "APPEAL OF ALTERNATE FUEL REBATE ~~DENIAL OR MODIFICATION~~";
 - 3) Include a copy of the original application and a copy of the denial letter or rebate ~~check~~ ~~modification~~ received by the applicant; and
 - 4) Identify which provisions of this Part the Agency did not properly apply and provide an explanation how the Agency allegedly misapplied the provisions of this Part.
- c) The notice of appeal must be postmarked within 30 days after the date of mailing of the denial letter or the ~~rebate check~~ ~~modification notification letter~~, as

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applicable.

- d) The Director shall reverse the denial or rebate amount determination if the modification: 1) If A) The procedures in this Part were incorrectly applied, thereby resulting in a denial or a rebate determination that is less than the amount for which the applicant is entitled, applied; or B) Additional information available to the Director supports payment of a rebate to the applicant; and 2) if funds If Funds were available for the payment of a valid rebate at the time of the initial decision.
- e) If the Director reverses the denial of the rebate, the applicant will be paid retain its prioritization as determined pursuant to Section 275.240 for payment during the next payment cycle.
- f) If the Director modifies the amount reverses the modification of the rebate, the applicant will be paid retain its prioritization as determined pursuant to Section 275.240 for payment of the difference between the amount of the rebate check and the modified amount contained in the application and the amount contained in the modification notification letter during the next payment cycle.
- g) If the Director affirms the Agency's denial or rebate amount determination modification of the rebate, the applicant may file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or infor the county in which the applicant resides.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 275.APPENDIX A Annual Fuel Cost Differential For LDVs (Repealed)

<u>ANNUAL MILES</u>	<u>ETHANOL FUEL</u> (in dollars)	<u>METHANOL FUEL</u> (in dollars)
>17,500 mi/yr	450	525
≤17,500 mi/yr	340	390

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

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- 1) Heading of the Part: Camping on Department of Natural Resources Properties
- 2) Code Citation: 17 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.50	Amendment
130.70	Amendment
130.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 805-305 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-305 and 805-515]
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are being made to amend campground registration requirements, eliminate the \$10 camping surcharge for Monday nights following a holiday weekend and to add language indicating that qualifying refunds for unused time will be made less the non-refundable reservation fee.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

George Sisk, Legal Counsel
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

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One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDSPART 130
CAMPING ON DEPARTMENT OF NATURAL RESOURCES PROPERTIES

Section	
130.10	Location
130.20	Purpose of Campground
130.30	Classification of Camps by Equipment Used – Definitions
130.40	Definitions
130.50	Registrations
130.60	Permits, Extensions and Time Limits
130.70	Fees and Charges
130.80	Refunds
130.90	Check-in and Check-out Times
130.100	Unoccupied Camps
130.110	Vehicles per Camp (Refer to 17 Ill. Adm. Code 130.30)
130.120	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.130	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.135	Campground Host Program
130.140	Use of Campground
130.150	Violation of Rule

AUTHORITY: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 805-305 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-305 and 805-515].

SOURCE: Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; emergency amendment at 5 Ill. Reg. 5707, effective June 1, 1981 for a maximum of 150 days; codified at 5 Ill. Reg. 10623; amended at 5 Ill. Reg. 14568, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 13244, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of

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150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. 6462, effective April 28, 1995; amended at 20 Ill. Reg. 6683, effective May 6, 1996; amended at 21 Ill. Reg. 9034, effective June 26, 1997; amended at 22 Ill. Reg. 3076, effective January 23, 1998; amended at 22 Ill. Reg. 11781, effective June 24, 1998; amended at 23 Ill. Reg. 8376, effective July 7, 1999; amended at 24 Ill. Reg. 1634, effective January 13, 2000; amended at 24 Ill. Reg. 13699, effective August 23, 2000; amended at 27 Ill. Reg. 12630, effective July 21, 2003; amended at 28 Ill. Reg. 6118, effective April 15, 2004; amended at 29 Ill. Reg. 20445, effective December 2, 2005; amended at 32 Ill. Reg. 181, effective December 19, 2007; amended at 32 Ill. Reg. 8406, effective May 21, 2008; amended at 34 Ill. Reg. _____, effective _____.

Section 130.50 Registrations

- a) A permit will be issued and fees collected at the time the camp is established with the camp shelter in place or as soon as possible thereafter (see Sections 130.70 and 130.80). A responsible adult (18 years of age or older) from the camping party must register for the party and thereby acknowledge compliance with the rules and regulations of the park for the party.
- b) The camping attendant has the authority to assign sites.
- c) Curfew: the provisions of Section 1 of the Child Curfew Act [720 ILCS 555/1] with reference to curfew for persons under the age of 17 years are in effect on Department of Natural Resources' properties.
- d) No camping equipment shall be placed on any campground site while that site is occupied by another camping party. A person acquiring a permit must have camp shelter at the time of registration and must occupy the site at that time.
- e) In "emergency situations", the camping attendant may designate an area and charge a fee commensurate with facilities provided (see Section 130.70).
- f) Reservations will be accepted at selected sites offering reservation service. A \$5 non-refundable fee must be submitted for each site reserved. The ~~full amount of the reservation fee shall be the applicable first night's~~ camping fee and utility fee (if applicable), in addition to the \$5 per campsite non-refundable reservation fee, ~~and~~ is required at the time reservation is made. The Department may set, by public announcement, minimum stay requirements and reservation cut-off dates. Cancellations made after the reservation cut-off dates will be subject to loss of

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~~one night's camping and utility fee (if applicable). The reservation fee insures that a reserved campsite will be held until 3:00 p.m. of the next day assuring reservation holders of a campsite in the event of late arrival.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Natural Resources and the site identified. Camping fees vary according to the type of campground and are as follows:
- 1) Spring-Summer Camping (rates apply May 1 through September 30, except at the World Shooting Complex during sanctioned shooting events when camping is reserved for event participants via a licensing agreement between the event sponsor and the Department)
- A) Class AA Sites: Camping fee of \$15 per night per site, \$10 utility fee. Sites having availability to showers, electricity, water hookups, sewer hookups, and vehicular access. The camping fee shall be \$25 per night on Friday, Saturday and Sunday ~~off~~ the Memorial Day and Labor Day holiday weekends ~~(Friday, Saturday, Sunday and Monday)~~ and on the nights of July 2, July 3 and July 4, unless July 4 falls on a Friday, Saturday and Sunday ~~and~~ nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday, then such increase shall be effective for the four night period beginning Friday of the July 4 weekend.
- B) Class A Sites: Camping fee of \$10 per night per site, \$10 utility fee. Sites having availability to showers, electricity and vehicular access. The camping fee shall be \$20 per night on Friday, Saturday and Sunday ~~off~~ the Memorial Day and Labor Day holiday weekends ~~(Friday, Saturday, Sunday and Monday)~~ and on the nights of July 2, July 3 and July 4, unless July 4 falls on a Friday, Saturday and Sunday ~~and~~ nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday, then such increase shall be effective for the four night period

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~~beginning Friday of the July 4 weekend.~~

- C) Class A Premium Sites: Camping fee of \$15 per night per site, \$10 utility fee. Sites having availability to showers, electricity and vehicular access. The camping fee shall be \$25 per night on Friday, Saturday and Sunday of the Memorial Day and Labor Day holiday weekends (~~Friday, Saturday, Sunday and Monday~~) and on ~~the nights of July 2, July 3 and July 4, unless July 4 falls on a~~ Friday, Saturday and; Sunday nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday; ~~then such increase shall be effective for the four night period beginning Friday of the July 4 weekend.~~
- D) Class B-E Sites: Camping fee of \$8 per night per site, \$10 utility fee. Sites having availability to electricity and vehicular access.
- E) Class B-E Premium Sites: Camping fee of \$10 per night per site, \$10 utility fee. Sites having availability to electricity and vehicular access.
- F) Class B-S Sites: Camping fee of \$10 per night per site. Sites having availability to showers and vehicular access.
- G) Class B-S Premium Sites: Camping fee of \$12 per night per site. Sites having availability to showers and vehicular access.
- H) Class C Sites: Camping fee of \$8 per night per site. Sites having vehicular access or tent camp/primitive sites (walk-in or backpack) having availability to showers.
- I) Class D Sites: Camping fee of \$6 per night per site. Tent camping or primitive sites with no vehicular access.
- J) Youth Group Camping: \$2 per person, minimum daily camping fee of \$20.
- K) Adult Group Camping: \$4 per person, minimum daily camping fee of \$40.

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- L) Each member of an organized group utilizing facilities furnished at Dixon Springs State Park, Horseshoe Lake State Fish and Wildlife Area (Alexander County) and Pere Marquette State Park shall pay a fee of \$4 per night. At Dixon Springs and Horseshoe Lake State Fish and Wildlife Area (Alexander County), a deposit of \$40 will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. At Pere Marquette, a deposit of \$100 will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. At Pere Marquette, deposit balances will not be refunded until inspection is made of the facilities after the group departs. If damages warrant, Pere Marquette will have authority to retain this deposit. Fees for day use of the group camps at Dixon Springs, Horseshoe Lake State Fish and Wildlife Area (Alexander County) and Pere Marquette shall be \$50 per day.
- M) Rent-A-Camp Tents
Tents will be made available at designated State parks and recreational areas throughout the Department's statewide system. Rent-A-Camp Tent areas will provide, at additional fees of \$8 and \$12 per night, one large tent (approximately 10' x 13') or one extra large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either 4 sleeping cots per large tent or 8 sleeping cots per extra large tent. The total overnight fee for a Rent-A-Camp Tent will be based on the basic fees of \$8 or \$12 per night in addition to the class of camping rate on which the Rent-A-Camp site is located.
- N) Rent-A-Camp Cabin areas will provide, at a basic cabin rental fee of \$25 per night, one 2-bedroom cabin with 2 bunk beds, one full-sized bed, ceiling fans, electric heaters, table with chairs, one charcoal grill, one picnic table, and one trash barrel. The total overnight fee for a Rent-A-Camp Cabin will be based on the basic fee plus Class specific utility and camping fees, as follows:
- i) Rent-A-Camp Cabins at Class A Sites:
\$25 cabin rental plus \$10 utility fee and \$10 camping fee per night, per site at all sites having availability to showers and vehicular access.

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- ii) Rent-A-Camp Cabins at Class A Premium Sites:
\$25 cabin rental plus \$10 utility fee and \$15 camping fee per night, per site at all sites having availability to showers and vehicular access.
 - iii) Individual Rent-A-Cabins at Dixon Springs State Park:
rented individually – not by organized groups pursuant to subsection (a)(1)(L); \$30 cabin rental fee per unit.
- O) A \$5 per campsite non-refundable [reservation](#) fee must be remitted at those facilities offering reservation services. This fee applies to reservations for group campsites as well as individual site reservations and individual Rent-A-Camp Cabin and individual Rent-A-Camp Tent reservations. In addition to the \$5 non-refundable fee, the [full amount of the first night's](#) camping and utility fee ([if applicable](#)) is required at the time reservations are made.
- P) Dumping of wastewater from recreational vehicles and camping trailers by persons who are not registered campers will cost \$5 per vehicle.
- 2) Fall-Winter Camping (rates apply October 1 through April 30, except at the World Shooting Complex during sanctioned shooting events when camping is reserved for event participants via a licensing agreement between the event sponsor and the Department)
- A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
 - B) When cold weather requires closing down buildings and shutting off water in any Class A or B campgrounds, the fee shall be reduced commensurate with the services and facilities available for use.
 - C) The fee for primitive campsites shall be \$6 per site. When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.

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- b) Exceptions: Employees, Concessionaires, and Special Legislation
- 1) Persons who qualify and are placed in the campground host program at approved camping sites will not be required to pay the established camping fee.
 - 2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.
 - 3) An Illinois resident age 62 or older, or a person who has a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] or a disabled veteran, or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act [20 ILCS 2805/5], is entitled to the following camping fee provisions, upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other members must be registered and pay the regular camping fee for the facilities provided.
 - A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday, or Thursday, at Class AA, A Premium, A, B-E Premium, B-E, B-S Premium, and B-S sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.
 - B) Illinois residents who have a Class 2 disability and present a current Illinois Disabled Person Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class AA, A Premium, A, B-E Premium, B-E, B-S Premium and B-S sites on any Monday, Tuesday, Wednesday or Thursday, but must pay the entire established camping fee for any

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Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites. Parents or legal guardians, aged 18 or over, of minors who have a current Class 2 Illinois Disabled Person Identification Card may register the campsite at the reduced rate specified in this subsection (b)(3)(B) for disabled persons, provided the disabled minor is present and camping at the same site as the parent or legal guardian.

- C) An Illinois resident who is a disabled veteran or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (see 20 ILCS 2805/5).

- c) World Shooting and Recreational Complex (WSRC)
The Department may establish the fees for use of all or parts of the campground at the WSRC through the negotiation of contracts for events to be held at the WSRC. The Department shall consider the numbers of camping spaces reserved and the services provided at each campsite when establishing fees by contract. All other fees set forth in this Section shall apply to public camping at the WSRC.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 130.80 Refunds

- a) A refund of camping and utility fees for unused time shall be made, within 7 days after departure, upon the request of the registered camper. No personal check refunds shall be made sooner than 10 days after the check has been deposited to insure clearance. Refunds will be made in the field out of current cash receipts. Refunds for Camper's Permit will be prepared and appropriate copies submitted to accounting. Full refunds of camping and utility fees (if applicable) for reserved camp sites shall be made, less the non-refundable reservation fee, provided the camper cancels the reservation before the reservation cut-off date set by the Department. Cancellations made after the reservation cut-off date will be subject to loss of one night's camping and utility fee (if applicable). No refunds will be made for no-shows unless the reservation has been cancelled.

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- b) Refund forms must be completed whenever a camper requests a refund for the unused portion of this camping permit.
- c) The person requesting the refund must show identification at the time of the refund.
- d) The camper's copy of the permit must be surrendered at the time of the refund.
- e) Rent-A-Camp reservation fees will not be refunded by the Department.
- f) No refunds will be made for reservation fees unless the campground is closed by the Department.
- g) The deposit required for organized group camps at Pere Marquette, Dixon Springs and Horseshoe Lake State Fish and Wildlife Area (Alexander County) will be non-refundable unless notice of cancellation is received at least 30 days prior to reservation date.
- h) ~~There is no refund of the first night's cabin/tent fee or camping and utility fee made as part of a campsite reservation that is canceled less than 3 days prior to the date of arrival.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Park and Recreational Facility Construction Act Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3070
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
3070.10	New Section
3070.20	New Section
3070.30	New Section
3070.40	New Section
3070.50	New Section
3070.60	New Section
3070.70	New Section
3070.80	New Section
- 4) Statutory Authority: Implementing and authorized by the Park and Recreational Facility Construction Act [525 ILCS 35]
- 5) A Complete Description of the Subjects and Issues Involved: This Part sets forth the objectives and guidelines for implementing a grant program that provides for grants to be disbursed by the Department to eligible local governments for park and recreation unit construction projects.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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Stanley Yonkauski, Jr.
Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This grant program provides grants to eligible local governments for park and recreational unit construction projects. Local government means: counties, townships, municipalities, park districts, conservation districts, forest preserve districts, river conservancy districts and any other unit of local government authorized by Illinois law to expend public funds for the acquisition and development of land for public indoor/outdoor park, recreation or conservation purposes.
- B) Reporting, bookkeeping or other procedures required for compliance: Upon project completion, the project sponsor must submit a certified project billing request listing all funds expended on the project for which grant reimbursement is sought, comply with operation and maintenance provisions, allow the Department access for inspection; maintain financial records, and post an PARC grant acknowledgment sign at the project site.
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3070
PARK AND RECREATIONAL FACILITY
CONSTRUCTION ACT GRANT PROGRAM

Section

3070.10	Program Objective
3070.20	Eligibility Requirements
3070.30	Assistance Formula
3070.40	General Procedures for Grant Applications and Awards
3070.50	Eligible Project Costs
3070.60	Project Evaluation Priorities
3070.70	Program Compliance Requirements
3070.80	Program Information/Contact

AUTHORITY: Implementing and authorized by the Park and Recreational Facility Construction Act [525 ILCS 35].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

Section 3070.10 Program Objective

- a) The Park and Recreational Facility Construction Act (PARC) provides for grants to be disbursed by the Department of Natural Resources (Department) to eligible local governments for park and-recreation unit construction projects.
- b) Park or recreation unit construction project means the acquisition, development, construction, reconstruction, rehabilitation, improvement, architectural planning, and installation of capital facilities consisting of buildings, structures, and land for park or recreation purposes and open spaces and natural areas, as those terms are defined in Section 10 of the Illinois Open Land Trust Act [525 ILCS 33].

Section 3070.20 Eligibility Requirements

Any unit of local government is eligible for assistance under the PARC grant program. Local government means counties, townships, municipalities, park districts, conservation districts,

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forest preserve districts, river conservancy districts and any other units of local government authorized by Illinois law to expend public funds for the acquisition and development of land for public indoor/outdoor park, recreation or conservation purposes.

Section 3070.30 Assistance Formula

The PARC program shall operate on a reimbursement basis providing up to the following maximum percentages for funding assistance:

- a) Of the total amount of PARC projects awarded statewide, 20% shall be awarded to the Chicago Park District, provided that the Chicago Park District complies with the provisions of State law and this Part, and 80% shall be awarded to local government units outside of the City of Chicago.
- b) Any grant under the Park and Recreational Facility Construction Act [525 ILCS 35] (Act) to a local government shall be conditioned upon the State providing assistance up to 75% of the approved project costs, with the exception of those local governments defined as disadvantaged, which shall be eligible for up to 90% State funding assistance provided that no more than 10% of the amount so appropriated in any fiscal year under the Act is made available for disadvantaged local governments.
- c) The Department will determine which local governments are considered disadvantaged based on calculations using the most current published Illinois Census data and Illinois Department of Revenue information. The Department may consider a unit of local government's request for inclusion as a disadvantaged applicant. If so requested, the unit of local government must submit verifiable data to justify its request. The Department may consider other available data in its calculations, but reserves the final determination on whether an applicant meets the definition of a disadvantaged community.

Section 3070.40 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced by the Department. Failure to submit a completed application to the Department by the specified application deadline will result in project rejection for that grant cycle.

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- b) Necessary application materials and instructions are available through the Department (see subsection (d)). Awarding of grants will be on a competitive basis and will be made under authority of the Director of the Department of Natural Resources.
- c) Project grant applications consist of the following basic components, at a minimum:
 - 1) applicant's name, address and telephone number;
 - 2) an itemized proposed project cost estimate;
 - 3) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;
 - 4) project location map, site plat map and proposed development plan;
 - 5) project environmental evaluation;
 - 6) proof of land ownership or usage rights for proposed development (construction) projects or commitment of title insurance for project property planned for acquisition;
 - 7) a signed document by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project; and
 - 8) a schedule of proposed expenditures/reimbursements from anticipated start through project completion.
- d) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, telephone 217/782-7481.

Section 3070.50 Eligible Project Costs

- a) Grant assistance may be obtained for the following items:

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- 1) Rehabilitation or Construction Projects with Capital Expenditures. Capital expenditure means an outlay of capital that confers long-term benefits that permanently improve the property's value or usefulness. Capital expenditures generally include, but are not limited to, one or more of the following purposes: architectural planning and engineering design costs in association with a larger bondable project; demolition (in preparation for additional work); site preparation and improvement; utility work; new construction of buildings and structures; reconstruction or improvement of existing buildings or structures; initial furniture and equipment integral to the project; replacement of currently utilized assets by a better asset; and expansion of existing buildings or facilities. Work that constitutes repairs, maintenance or remodeling of a limited nature or scope and that is not done as part of a larger bondable project shall not be considered bondable capital expenditures. A non-bondable project is generally one that maintains or preserves the existing condition, use or size of a capital asset and that is neither in the nature of a betterment nor a change to the capital asset's condition, use or size. Generally, this work does not significantly add to the value of the capital asset nor appreciably prolong the life of the capital asset. Eligible project types include, but are not limited to, the following:
 - A) demolition in preparation for additional indoor/outdoor recreation purposes;
 - B) site preparation and improvements for indoor/outdoor recreation purposes;
 - C) utility work for indoor/outdoor recreation purposes;
 - D) reconstruction or improvement of existing buildings or structures for indoor/outdoor recreation purposes;
 - E) expansion of existing buildings or facilities for indoor/outdoor recreation purposes; and
 - F) new construction of buildings and structures for indoor/outdoor recreation purposes.

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- 2) The following are operating or other types of expenditures that are not considered capital expenditures:
 - A) projects with a total cost of less than \$25,000;
 - B) feasibility studies, long-range development plans, master plans, and historical or archaeological research;
 - C) costs of repairs or maintenance that are normally anticipated to occur;
 - D) remodeling of a limited nature or scope that is not done as part of a larger bondable project;
 - E) costs of staff or resident labor and material;
 - F) ongoing operational and administrative expenses;
 - G) installation of fire alarms, smoke detectors, or connections of building monitoring systems to a central or off-site central monitor, unless included in a larger bondable project; and
 - H) purchase of vehicles or construction equipment.
- 3) Land acquisition costs (fee simple title or permanent easement, etc.) for public park and/or conservation purposes, including associated eligible appraisal costs. Eligible projects include, but are not limited to, acquisition of land for the following:
 - A) construction of new public indoor/outdoor recreation buildings, structures and facilities;
 - B) expansion of existing public indoor/outdoor recreation buildings, structures and facilities;
 - C) general park purposes such as regional, community and neighborhood parks and playfields;
 - D) frontage on public surface waters for recreation use;

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- E) open space/conservation purposes to protect floodplains, wetlands, natural areas, wildlife habitat and unique geologic or biologic features; and
 - F) additions to the projects described in subsections (a)(3)(A)-(E).
- b) Acquisition of land from another public agency (excluding school districts) is not eligible for PARC grant assistance.
 - c) Project costs for which reimbursement is sought cannot be incurred by the project applicant prior to grant approval notification. Costs incurred prior to Department approval are ineligible for grant assistance with the exception of architectural and engineering fees. For acquisition projects, costs are considered incurred when a property deed, lease or other conveyance is accepted by the local sponsor or first payment is made on the project property or to an escrow account for the property.
 - d) Development project costs are considered incurred on the date construction contracts are signed or actual physical work begins on the project site or project materials are delivered.
 - e) No grant funds shall be awarded for the acquisition or development of land that will not be available for general public indoor/outdoor recreation use.
 - f) PARC grant funds cannot be used to match other State or federal grant funds.

Section 3070.60 Project Evaluation Priorities

The following factors are used by the Department in evaluating and recommending local project applications for funding consideration. These priorities are listed in this Section and also available in the Department's PARC Local Participation Grant Manual (available from Illinois Department of Natural Resources Division of Grant Administration, One Natural Resources Way, Springfield IL 62702-1271). Department grant staff, in consultation with executive and appropriate resource staff, review all applications in accordance with the established evaluation criteria. Department grant staff recommendations are forwarded to the Director for PARC grant approval.

- a) Statewide Local Needs Assessment – 55%

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- 1) useful life of existing facilities and improvements in comparison to the Department's schedule of Useful Life of Park and Recreation Facilities;
 - 2) address public health and safety needs;
 - 3) sponsor has high economic need;
 - 4) correct accessibility deficiencies as defined by the Americans With Disability Act (42 USC 12101);
 - 5) projects that provide the greatest benefit in terms of cost per capita within the applicant's jurisdictional boundaries; and
 - 6) land acquisition.
- b) **Statewide Comprehensive Outdoor Recreation Priorities – 10%**
Projects are evaluated in terms of their ability to address major outdoor recreation and conservation issues identified by the Department in its Statewide Outdoor Recreation Plan. These include, but are not limited to, natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation, recreation for disadvantaged populations and adaptive re-use/redevelopment of urban lands, including brownfields.
- c) **Project Concept and Site Characteristics – 15%**
The project proposal is evaluated in terms of the site's physical and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; compatibility with adjacent land uses; environmental intrusion on the site; impacts to cultural and natural resources; suitability for the construction of a new building, structure or facility; and the overall recreational diversity provided by the project. Consideration is also given for the use of recycled materials, composting, water or resource-conservancy materials, methods, products or practices.
- d) **Local Planning – 10%**
The major consideration under this criterion is public support and input into the project plan and existence of a comprehensive local recreation and/or open space plan identifying the proposed project as a priority. Consideration is also given for

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unique recreational opportunities not specifically identified in a local plan but having documented widespread public support.

- e) Other Considerations – 10%
Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; proposing initial site development; involving private donations; representing economic revitalization efforts; or from applicants not previously benefitting from PARC assistance.
- f) Penalty Factors
Consideration is given to the applicant's past performance in completing open space lands acquisition and development (OSLAD) or other Department grant projects or unresolved project violations and the ability to properly maintain the project site.

Section 3070.70 Program Compliance Requirements

- a) Any property acquired or developed through assistance from the Illinois PARC grant program must be open to the public for indoor/outdoor recreation use as set forth in this Part without regard to race or color, creed, national origin, sex or disability.
- b) All development projects receiving grant assistance shall be bound by the terms of this program for a period of 20 years. All properties acquired with PARC assistance are required to have a covenant placed on the deed at the time of recording that stipulates the property must be used, in perpetuity, solely for indoor/outdoor recreation purposes and cannot be sold or exchanged, in whole or part, to another party without approval from the Department.
- c) Property acquired or developed with PARC funds may not be converted to a use other than public outdoor recreation use as provided in this Part without prior Department approval. Approval for property conversion will be granted only if the project sponsor substitutes replacement property of at least equal fair market value and comparable outdoor recreation usefulness, quality and location.
- d) For projects receiving acquisition assistance, an appraisal must be provided by the sponsoring agency and submitted to the Department for review and certification to establish the fair market value of the property. The appraisal must be completed to Department specifications.

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- e) For projects receiving development assistance, the sponsoring agency must possess either fee simple title or other means of legal control and tenure (easement, lease, etc.) over the property being improved for a period of 20 years. The Department will consider, on a case-by-case basis, lease arrangements for shorter periods when State statute prohibits a unit of local government from entering into such a long-term agreement, or other circumstances beyond the control of the unit of local government prohibit such arrangements. The sponsor must also adhere to applicable local bidding and procurement requirements and make available to the Department, upon request, all working plans, specifications, contract documents and cost estimates for review prior to commencing work. The format for any advertisement or prospectus soliciting and inviting bids, indicating submission deadlines, must also be presented, upon request, to the Department for review prior to publication.
- f) The local project sponsor is required to enter into an agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant reimbursement amount and program compliance regulations.
- g) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:
 - 1) Acquisition Project: Proof of good faith negotiations or fair market value offer to land seller, copy of property deed and title insurance policy (Judgement Order in case of condemnation) showing ownership transferred to the local project sponsor, and copies of canceled checks showing proof of payment to seller.
 - 2) Development Projects: Copy of construction as-built drawings (no larger than 11" x 17") and verification of actual project costs.
- h) All financial records on approved projects must be maintained and retained, in accordance with State laws, by the project sponsor for possible State audit after final reimbursement payment is made by the Department.

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- i) The sponsoring agency must permanently post a PARC grant acknowledgment sign at the project site. The wording for the PARC sign will be provided by the Department.
- j) Projects assisted with PARC grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.
- k) The sponsoring agency must observe and comply with the provisions of the Prevailing Wage Act [820 ILCS 130/4], which apply to the wages of laborers, mechanics and other workers employed in any public works, and with the prevailing wage requirements of the Illinois Procurement Code [30 ILCS 500/25-60].
- l) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as construction progresses and that a final inspection and acceptance of the completed project may be made by a representative or agent of the Department prior to final payment of grant reimbursement to the local sponsoring agency.
- m) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims arising under, through or by virtue of the construction, operation and maintenance of PARC assisted facilities.
- n) In connection with and prior to the construction and the subsequent operation and maintenance of PARC assisted facilities, it shall be understood that the project sponsor is responsible for obtaining any and all necessary construction permits, licenses or forms of consent, as required by law. Failure to obtain any required permits may jeopardize approved grant funding.
- o) The sponsoring agency must comply with and abide by the following operation and maintenance provisions:
 - 1) All lands and facilities assisted with PARC funds shall be continuously operated and maintained by the sponsoring agency in a safe and attractive manner at no cost to the Department and be operated and utilized in such a manner as to maximize the intended benefits to the public.

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- 2) The Department shall have access to PARC assisted facilities at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part.
 - 3) The sponsoring agency may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities for dispersing food to the public and/or any other services as may be desired by the public and the sponsoring agency for enjoyable and convenient use of the PARC assisted site.
 - 4) Any and all concession revenue in excess of the costs of operation and maintenance of the PARC lands and/or facilities shall be used for the improvement of those lands or facilities or similar nearby public facilities. All sub-leases or licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the PARC facility for benefit of the public shall be submitted to the Department, upon request, for its approval prior to the sublease or license being entered into or granted by the sponsoring agency.
- p) Conflict of Interests
- 1) No official or employee of the local political subdivision who is authorized in his or her official capacity to negotiate, make, accept, or approve or to take part in decisions regarding a contract or subcontract in connection with an approved PARC grant project shall have any financial or other personal interest in any such contract or subcontract.
 - 2) No person performing services for the local political subdivision in connection with an approved PARC grant project shall have a financial or other personal interest other than his or her employment or retention by the local political subdivision in any contract or subcontract in connection with an approved PARC grant project. No officer or employee of such person retained by the local political subdivision shall have any financial or other personal interest in any real property acquired under an approved PARC grant project unless that interest is openly disclosed upon the public records of the local political subdivision and the officer, employee or person has not participated in the acquisition for or on behalf of the local political subdivision.

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- q) The project sponsor certifies that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105/16].
- r) Pursuant to Section 2-105(A)(4) of the Human Rights Act [775 ILCS 5/2-105(A)(4)], the project sponsor certifies that it has a written sexual harassment policy that includes, at a minimum, the following information:
- 1) the illegality of sexual harassment;
 - 2) the definition of sexual harassment under State law;
 - 3) a description of sexual harassment utilizing examples;
 - 4) the contractor's internal complaint process, including penalties;
 - 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
 - 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. A copy of the policy shall be provided to the Department of Human Rights upon request.
- s) Program Violations and Project Termination
- 1) The State will unilaterally rescind project agreements at any time prior to the commencement of the project in the event that State funds are not appropriated for the grant program. After project commencement, agreements may be rescinded, modified or amended only by mutual agreement with the local political subdivision. A project shall be deemed to be commenced when the local political subdivision makes any expenditure or incurs any obligation with respect to the project.
 - 2) Failure by the local sponsoring agency to comply with any of the program terms listed in this Section shall be cause for the suspension of all grant assistance obligations, unless, in the judgement of the Department, the failure was due to no fault of the local sponsoring agency (e.g., statutory changes, acts of God).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED RULES

Section 3070.80 Program Information/Contact

For information on the PARC Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
One Natural Resources Way
Springfield IL 62702-1271

Telephone: 217/782-7481
FAX: 217/782-9599

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
106.100	Amended
106.800	New
106.802	New
106.804	New
106.806	New
106.808	New
106.810	New
106.812	New
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28] and Section 92.5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92.5]
- 5) A Complete Description of the Subjects and Issues Involved: A more detailed description of this rulemaking is contained in the Board's opinion and order in Procedural Rules for Authorizations under PA 95-115 (Regulation of Phosphorus in Detergents Act), 35 Il. Adm. Code 106.Subpart H, R10-19 (March 18, 2010). This proposed rulemaking implements PA 95-115, the Regulation of Phosphorus in Detergents Act, signed and effective August 13, 2007. PA 95-115, codified at 415 ILCS 92, prohibits the manufacture, distribution, sale, and use of "any cleaning agent" that contains more than 0.5% phosphorus by weight, expressed as elemental phosphorus, after July 1, 2010. Section 5(d) provides that the Board may authorize use of cleaning agents with excess phosphorus "upon finding that there is no adequate substitute for that cleaning agent or that compliance with this . . . would otherwise be unreasonable or create a significant hardship on the user". The Board is directed to promulgate rules to implement the Section. The Board has not received any proposals for rulemaking to implement this Section, and so has itself drafted and now proposes procedural rules for Board cleaning agent determinations.
- 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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]. The proposed rulemaking implements a statutory means for exception from a legislative prohibition.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board presently does not intend to hold a hearing on these proposed procedural rules unless requested to do so. The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R10-19 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R10-19 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Kathleen Crowley at 312/814-6929 or email at crowlek@ipcb.state.il.us.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business that may wish to manufacture, distribute, sell, and use "any cleaning agent" that contains more than 0.5% phosphorus by weight, expressed as elemental phosphorus, after July 1, 2010. These businesses may file a petition for authorization to do so as provided in the proposed rules.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None, as petitions for authorization are voluntary requests for relief from a legislative prohibition.
- C) Types of Professional skills necessary for compliance: None, as petitions for authorization are voluntary from a legislative prohibition.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Board had initially believed that cleaning authorization petitions could be handled under existing procedural rules, but upon further review determined to issue rules under the Regulation of Phosphorus in Detergents Act to avoid any procedural uncertainty or confusion for members of the general public and regulated community.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
106.100 Applicability
106.102 Severability
106.104 Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS

Section
106.200 General
106.202 Petition Requirements
106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
106.206 Notice
106.208 Recommendation and Response
106.210 Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section
106.300 General
106.302 Initiation of Proceeding
106.304 Petition Content Requirements
106.306 Response and Reply
106.308 Hearing
106.310 Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT
PERMIT PROGRAM (CAAPP) PERMITS

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 106.400 General
- 106.402 Definitions
- 106.404 Initiation of Proceedings
- 106.406 Petition Content Requirements
- 106.408 Response and Reply
- 106.410 Hearing
- 106.412 Burden of Proof
- 106.414 Opinion and Order
- 106.416 USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

- Section
- 106.500 General
- 106.502 Definitions
- 106.504 Initiation of Proceedings
- 106.506 Petition Content Requirements
- 106.508 Response and Reply
- 106.510 Hearing
- 106.512 Burden of Proof
- 106.514 Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

- Section
- 106.600 General
- 106.602 Initiation of Proceedings
- 106.604 Petition Content Requirements
- 106.606 Response and Reply
- 106.608 Hearing
- 106.610 Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

- Section
- 106.700 Purpose

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

106.702	Applicability
106.704	Termination Under Section 52.3-4(b) or (b-5) of the Act
106.706	Who May Initiate, Parties
106.707	Notice, Statement of Deficiency, Answer
106.708	Service
106.710	Notice of Hearing
106.712	Deficient Performance
106.714	Board Decision
106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

<u>Section</u>	
<u>106.800</u>	<u>General</u>
<u>106.802</u>	<u>Definitions</u>
<u>106.804</u>	<u>Initiation of Proceeding</u>
<u>106.806</u>	<u>Petition Content Requirements</u>
<u>106.808</u>	<u>Response and Reply</u>
<u>106.810</u>	<u>Hearing</u>
<u>106.812</u>	<u>Burden of Proof</u>

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], and Section 92.5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92.5].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 106.100 Applicability

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, ~~and~~ the involuntary termination of environmental management system agreements, and authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS 92].
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101 which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

Section 106.800 General

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Description. This Subpart applies to any person who files a petition for Board authorization to use cleaning agents that contain phosphorus of an amount exceeding 0.5% by weight as provided in Section 5(e) of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5(e)].
- b) Parties. The person filing the petition for authorization must be named the petitioner and the Agency must be named the respondent.
- c) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C will apply to the proceedings of this Subpart.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.802 Definitions

The definitions of 35 Ill. Adm. Code.Subpart B and Section 5 of the Regulation of Phosphorus in Detergents Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise. If there is a conflict, the definitions of Section 5 of the Act will apply.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.804 Initiation of Proceeding

The petitioner must file the petition for authorization with the Clerk of the Board and must serve one copy upon the Agency.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.806 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, concerning the cleaning agent containing excess phosphorus for which authorization is sought and outlining a description of the cleaning agent and its phosphorus content, the duration of, the reasons for, and the basis of the authorization sought, consistent with the burden of proof stated in Section 106.812 of this Part;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) The nature of the petitioner's operations;
- c) Any other information that may be required by Section 5 of the Regulation of Phosphorus in Detergents Act.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.808 Response and Reply

- a) Within 21 days after the filing of a petition, the Agency may file a response to any petition in which it has not joined as co-petitioner. The response must include the comments concerning potential Board action on the petition.
- b) The petitioner may file a reply within 14 days after the service of any Agency response.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.810 Hearing

The Board will hold a public hearing in an authorization proceeding only if a hearing is requested by the petitioner, the Agency, or any other person within 14 days after the filing of any reply under Section 106.808(b). The hearing officer will schedule the hearing. The Clerk will give notice of hearing in accordance with 35 Ill. Adm. Code 101. The proceedings will be in accordance with 35 Ill. Adm. Code 101.Subpart F.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 106.812 Burden of Proof

The burden of proof is on the petitioner. The petitioner must demonstrate that:

- a) There is no adequate substitute for that cleaning agent for which authorization is sought; or
- b) Compliance with the requirements of Section 5 of the Regulation of Phosphorus in Detergents Act would otherwise be unreasonable or create a significant hardship on the user. [415 ILCS 92/5(e)]

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Freestanding Emergency Center Code
- 2) Code Citation: 77 Ill. Adm. Code 518
- 3) Section Number: 518.1100 Proposed Action: Amend
- 4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- 5) A Complete Description of the Subjects and Issues Involved: Part 518 establishes minimum standards for Freestanding Emergency Centers, including the minimum standards for licensure. This amendment implements Public Act 96-23, which eliminates the June 30, 2009 deadline for licensure of FECs, inserts a requirement for FECs to get a permit from the Health Facilities and Services Review Board, and requires that a permit application be deemed complete by March 1, 2009. Additionally, PA 96-23 eliminates a requirement for FECs to maintain helicopter landing pads.

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

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: freestanding emergency centers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 518
FREESTANDING EMERGENCY CENTER CODE

Section

518.1000	Definitions
518.1050	Incorporated and Referenced Materials
518.1100	Freestanding Emergency Center Licensure
518.1150	Initial Licensure Application
518.1155	Application for Annual License Renewal
518.1160	Surveys
518.1165	Complaints
518.1200	Emergency Suspension Orders
518.1250	Violations and Hearings
518.1300	Governing Board
518.1350	Provision of Emergency Services
518.1400	EMS System Participation
518.1450	Patients' Rights
518.1500	Language Assistance Services
518.1550	Personnel Services
518.1600	Personnel Requirements
518.1610	Health Care Worker Background Check
518.1650	Medical Staff Organization
518.1700	Nursing Services
518.1750	Accounting
518.1800	Quality Assurance and Reporting
518.1850	Orders for Medications and Treatments
518.1900	Infection Control
518.1950	Sterilization and Processing of Supplies
518.2000	Laboratory Services
518.2010	Radiological Services
518.2020	Comprehensive Emergency Treatment Services
518.2030	Notification of Emergency Personnel
518.2040	Community or Areawide Planning
518.2050	Disaster and Mass Casualty Program
518.2060	Emergency Services for Sexual Assault Survivors

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

518.2070	Pharmacy Service
518.2080	Housekeeping Service
518.2090	Insect and Rodent Control
518.2100	Laundry Service
518.2110	Food Service
518.2120	Maintenance
518.2130	Fire Safety
518.2140	Water Supply
518.2150	Garbage, Waste and Sewage Handling and Disposal
518.2160	Submission of Architectural Plans
518.2170	Preparation of Drawings and Specifications – Submission Requirements
518.2180	Construction Details
518.2190	Finishes
518.2200	Structural Requirements
518.2210	Mechanical Requirements
518.2220	Plumbing and Other Piping Systems
518.2230	Electrical Requirements
518.2240	Building Requirements
518.ILLUSTRATION A	Seismic Zone Map
518.TABLE A	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
518.TABLE B	Insulation/Building Perimeter
518.TABLE C	Minimum Efficiency Reporting Values

AUTHORITY: Implementing and authorized by Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Adopted at 22 Ill. Reg. 13756, effective July 10, 1998; amended at 24 Ill. Reg. 14026, effective August 31, 2000; amended at 27 Ill. Reg. 8456, effective May 15, 2003; amended at 33 Ill. Reg. 8317, effective June 4, 2009; amended at 34 Ill. Reg. _____, effective _____.

Section 518.1100 Freestanding Emergency Center Licensure

- a) ~~The~~ ~~Until June 30, 2009, the~~ Department shall license freestanding emergency centers pursuant to the Act and this Part.
- b) A freestanding emergency center shall meet the following requirements:
 - 1) has received a permit from the Illinois Health Facilities and Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Review Board to establish a freestanding emergency center if the application for the permit has been deemed complete by the Department by March 1, 2009;

2)4) is located:

- A) in a municipality with a population of 75,000 or fewer inhabitants;
- B) within 20 miles of the hospital that owns or controls the freestanding emergency center; and
- C) within 20 miles of the Resource Hospital affiliated with the freestanding emergency center as part of the EMS system;

3)2) is wholly owned or controlled by an Associate or Resource Hospital, but is not a part of the hospital's physical plant;

4)3) meets the standards for licensed FECs, adopted in this Part, including, but not limited to:

- A) facility design, specification, operation, and maintenance standards;
- B) equipment standards; and
- C) the number and qualifications of emergency medical personnel and other staff, which must include at least one board certified emergency physician present at the FEC 24 hours per day.

5)4) limits its participation in the EMS System strictly to receiving a limited number of BLS runs by emergency medical vehicles according to protocols developed by the Resource Hospital within the FEC's designated EMS System and approved by the Project Medical Director and the Department;

6)5) provides comprehensive emergency treatment services, as defined in Hospital Licensing Requirements (77 Ill. Adm. Code 250), 24 hours per day, on an outpatient basis;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- ~~7)6)~~ *provides an ambulance and maintains on site ambulance services staffed with paramedics 24 hours per day;*
- ~~7)~~ *~~maintains helicopter landing capabilities approved by appropriate State and federal authorities;~~*
- 8) *complies with all State and federal patient rights provisions, including, but not limited to, the Emergency Medical Treatment Act and the federal Emergency Medical Treatment and Active Labor Act;*
- 9) *maintains a communications system that is fully integrated with its Resource Hospital within the FEC's designated EMS System;*
- 10) *reports to the Department any patient transfers from the FEC to a hospital within 48 hours after the transfer plus any other data determined to be relevant by the Department;*
- 11) *submits to the Department, on a quarterly basis, the FEC's morbidity and mortality rates for patients treated at the FEC and other data determined to be relevant by the Department;*
- 12) *does not describe itself or hold itself out to the general public as a full service hospital or hospital emergency department in its advertising or marketing activities;*
- 13) *complies with any other rules adopted by the Department under the Act that relate to FECs;*
- 14) *passes the Department's site inspection for compliance with the FEC requirements of the Act;*
- 15) *submits a copy of the permit issued by the Illinois Health Facilities and Services Review~~Planning~~ Board indicating that the facility has complied with the Illinois Health Facilities Planning Act with respect to the health services to be provided at the facility;*
- 16) *submits an application for designation as an FEC in a manner and form prescribed by the Department in this Part; and*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

17) *pays the annual license fee as determined by the Department.* (Section 32.5(a)(1) of the Act)

e) ~~The freestanding emergency center shall be wholly owned or controlled by an Associate or Resource Hospital, but shall not be a part of the hospital's physical plant.~~ (Section 32.5(a)(2) of the Act)

d) ~~A freestanding emergency center shall not describe itself or hold itself out to the general public as a full service hospital or hospital emergency department in its advertising or marketing activities.~~ (Section 32.5(a)(12) of the Act)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Swimming Facility Code
- 2) Code Citation: 77 Ill. Adm. Code 820
- 3) Section Number: 820.145 Proposed Action:
Amend
- 4) Statutory Authority: Implementing and authorized by the Swimming Facility Act [210 ILCS 125]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend the Swimming Facility Code (77 Ill. Adm. Code 820) to clarify which Sections are referenced for compliance with the suction outlet requirements for swimming facilities in existence prior to January 1, 2009. This change is necessary to ensure clear understanding of Code requirements by regulated entities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

217/782-2043

e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed rulemaking will affect swimming facility operators in the above categories.
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking does not change the procedures for compliance.
 - C) Types of professional skills necessary for compliance: The proposed rulemaking does not change the professional skills necessary for swimming facility owners and operators. The rulemaking clarifies the requirements for regulated entities.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the Department's regulatory agenda because: the need for these amendments was not known at the time the agenda was proposed.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER n: RECREATIONAL FACILITIES

PART 820
SWIMMING FACILITY CODE

SUBPART A: GENERAL

- Section
- 820.10 Definitions
- 820.20 Incorporated and Referenced Materials

SUBPART B: SWIMMING POOLS AND BATHING BEACHES

- Section
- 820.100 Permits
- 820.110 Water Supplies
- 820.120 Wastewater Disposal
- 820.130 Food Service Sanitation
- 820.140 Exemptions
- 820.145 Swimming Facilities in Existence Prior to January 1, 2009
- 820.150 Variances

SUBPART C: SWIMMING ~~FACILITY~~ FACILITY DESIGN REQUIREMENTS

- Section
- 820.200 General Design Requirements
- 820.210 Swimming Facility Water Treatment System
- 820.220 Swimming Pool Bather Preparation Facilities
- 820.230 Wading Pools
- 820.240 Spray Pools
- 820.250 Slides
- 820.260 New Equipment, Construction and Materials (Repealed)
- 820.270 Lazy Rivers

SUBPART D: OPERATIONAL REQUIREMENTS

Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

820.290	Applicability of Operation Requirements
820.300	Personnel
820.310	Safety Equipment
820.315	Notification
820.320	Water Quality
820.330	Swimming Pool Closing
820.340	Operation and Maintenance
820.350	Operation Reports and Routine Sampling
820.360	Patron Regulations
820.370	Swimming Suits and Towels Furnished by Management
820.380	Wading Pools, Spray Pools and Therapy Pools
820.390	Refuse Disposal

SUBPART E: BATHING BEACH DESIGN AND OPERATION

Section

820.400	Minimum Sanitary Requirements for Bathing Beaches
820.500	Minimum Sanitary Requirements for Bathing Beaches (Renumbered)

820.APPENDIX A

Illustrations

820.ILLUSTRATION A	Slope of Pool Floor
820.ILLUSTRATION B	Pool Walls
820.ILLUSTRATION C	General Pool Diving Area Dimensions
820.ILLUSTRATION D	Pools with Diving Facilities in Excess of Three Meters in Height
820.ILLUSTRATION E	Slide Dimensions (Repealed)
820.ILLUSTRATION F	Slide Position (Repealed)
820.ILLUSTRATION G	Flow Meter Installation
820.ILLUSTRATION H	Skimmer Construction
820.ILLUSTRATION I	Installation of a Pressure Sand Filter System
820.ILLUSTRATION J	Installation of a Pressure Diatomaceous Earth Filter System
820.ILLUSTRATION K	Installation of a Vacuum Filter System
820.ILLUSTRATION L	Chlorine Injection into Return Line to Pool Using Pump Discharge Pressure
820.ILLUSTRATION M	Chlorine Injection into Return Line to Pool Using External Water Source Pressure (Repealed)
820.ILLUSTRATION N	Chlorine Injection into Return Line to Pool Using Booster Pump

| 820.APPENDIX B

Tables

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

820.TABLE A	Dimensions of Swimming Pools with Diving Facilities in Excess of Three Meters in Height
820.TABLE B	First Aid Kit Contents
820.TABLE C	Flows Carried by Inlets
820.TABLE D	Sizing Swimming Pool Chlorinators
820.TABLE E	Shower, Lavatory and Toilet Fixtures Required Per Bather Load

AUTHORITY: Implementing and authorized by the Swimming Facility Act [210 ILCS 125].

SOURCE: Adopted October 22, 1974; amended and effective February 9, 1976; amended at 4 Ill. Reg. 46, p. 1283, effective November 5, 1980; amended at 5 Ill. Reg. 9593, effective September 16, 1981; rules repealed and new rules adopted at 5 Ill. Reg. 13623, effective December 2, 1981; amended and codified at 8 Ill. Reg. 12366, effective July 5, 1984; amended at 11 Ill. Reg. 12308, effective July 15, 1987; amended at 14 Ill. Reg. 786, effective January 1, 1990; amended at 20 Ill. Reg. 6971, effective May 25, 1996; emergency amendment at 21 Ill. Reg. 7536, effective May 28, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 9357, effective May 15, 1998; amended at 23 Ill. Reg. 6079, effective May 20, 1999; emergency amendment at 23 Ill. Reg. 6551, effective May 20, 1999, for a maximum of 150 days; emergency expired October 16, 1999; amended at 24 Ill. Reg. 11271, effective July 15, 2000; amended at 25 Ill. Reg. 8291, effective July 1, 2001; emergency amendment at 27 Ill. Reg. 4223, effective February 15, 2003, for a maximum of 150 days; emergency expired July 14, 2004; emergency amendment at 33 Ill. Reg. 7177, effective May 18, 2009, for a maximum of 150 days; emergency expired October 14, 2009; amended at 34 Ill. Reg. 2698, effective February 3, 2010; amended at 34 Ill. Reg. _____, effective _____.

SUBPART B: SWIMMING POOLS AND BATHING BEACHES

Section 820.145 Swimming Facilities in Existence Prior to January 1, 2009

- a) All swimming facilities with suction outlets located in the pool shall comply with Section 820.200(e) and Section 820.210(f)(3)(~~H~~). Compliance with Section 820.210(f)(3)(G) is not required when suction outlets comply with one or more of the following:
 - 1) The suction outlet piping system is equipped with a safety vent pipe that will introduce air into the suction pipe if the water level in the vent pipe drops to a level of no more than 5 feet below the water level in the pool, but shall not introduce air into the suction piping when there is no obstruction of a suction outlet or in suction piping. The diameter of the

DEPARTMENT OF PUBLIC HEALTH

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vent pipe shall be at least $\frac{1}{2}$ the diameter of the suction pipe, but not less than $1\frac{1}{2}$ inches. The top of the vent pipe shall be open to the atmosphere and shall not be accessible to the public. The opening shall be protected against entry of dirt, rodents, birds, leaves, and other objects, and shall be accessible for cleaning and inspection; or

- 2) The suction outlet piping system is equipped with a safety vacuum release system, which shall be installed in accordance with the manufacturer's specifications. A safety vacuum release system shall be certified in accordance with ASME/ANSI A112.19.17-2002 or ASTM F2387-04; or
 - 3) Water flows from the suction outlet to a surge tank, vacuum filter tank or balance tank by force of gravity, and the pump suction pipe draws water from the surge, vacuum filter or balance tank and is not directly connected to the suction outlet. The vacuum filter, surge or balance tank shall be vented to the atmosphere. The vent shall be designed to prevent blockage.
- b) Existing skimmer equalizer lines shall be permanently disabled or the piping shall be rerouted as required by Section 820.210(f)(5)(F).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Lead Poisoning Prevention Code
- 2) Code Citation: 77 Ill. Adm. Code 845
- 3)

<u>Section Number:</u> 845.30	<u>Proposed Action:</u> New
----------------------------------	--------------------------------
- 4) Statutory Authority: Lead Poisoning Prevention Act [410 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Lead Poisoning Prevention Code to incorporate changes to the Illinois Lead Poisoning Prevention Act that became effective January 1, 2010. The Act requires that certain products intended for children bear a lead warning label. The Act states that children's jewelry, child care articles and toys containing paint must bear a warning label if the total lead content of any component part of these items exceeds 40 parts per million (ppm) but is less than 600 ppm by total weight, or a lower standard for lead content as may be established by federal or state law or regulation. A warning label must appear on the product itself or on the label of the product's immediate container and must include at least the following statement: "WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD." The warning must be conspicuous, legible, and located in a prominent place on the item or package, and it must contrast with the typography, layout and color of the other printed matter.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:
- Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761
- 217-782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Affected small businesses will include retailers engaged in the sale of child care articles, children's jewelry or toys.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the Department's regulatory agenda because: the need for these amendments was not known at the time the agenda was proposed.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER p: HAZARDOUS AND POISONOUS SUBSTANCES

PART 845
LEAD POISONING PREVENTION CODE

SUBPART A: GENERAL PROVISIONS

Section	
845.10	Applicability
845.15	Incorporated and Referenced Materials
845.20	Definitions
845.25	Disclosure Requirements
<u>845.30</u>	<u>Warning Statement for Products for Use by Children</u>

SUBPART B: DEPARTMENT AND DELEGATE AGENCY ACTIVITIES

Section	
845.50	Approval of Units of Local Government or Health Departments as Delegate Agencies to Administer and Enforce the Act
845.55	Lead Screening
845.60	Reporting
845.65	Provision of Data
845.70	Laboratory Fees for Blood Lead Screening
845.75	Requirements for Licensing of Department and Delegate Agency Personnel
845.80	Surveillance and Case Management
845.85	Environmental Follow-Up

SUBPART C: TRAINING COURSE APPROVAL AND
LICENSING OF INDIVIDUALS AND FIRMS

Section	
845.100	Approval of Training Program Providers
845.105	Lead Training Course Approval Requirements
845.110	Lead Training Course Notification Requirements
845.115	Application Fees for Approval and Renewal of Lead Training Courses
845.120	Lead Training Program Provider Record Keeping Requirements
845.125	Individual Licensing Requirements for Lead Activities

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- 845.130 Requirements for Lead Abatement Contractor Licensing
- 845.135 Third Party Examination Requirements
- 845.140 Reciprocity Requirements

SUBPART D: RESPONSIBILITIES OF LICENSED INDIVIDUALS,
CONTRACTORS AND APPROVED TRAINING PROGRAM PROVIDERS

Section

- 845.150 Lead Worker Responsibilities
- 845.155 Lead Supervisor Responsibilities
- 845.160 Lead Inspector Responsibilities
- 845.165 Lead Risk Assessor Responsibilities
- 845.170 Lead Abatement Contractor Responsibilities
- 845.175 Lead Training Program Provider Responsibilities

SUBPART E: STANDARDS FOR CONDUCTING
ENVIRONMENTAL INVESTIGATIONS FOR LEAD

Section

- 845.200 Environmental Lead Sampling Protocol
- 845.205 Regulatory Limits of Lead
- 845.210 Procedures for Lead Inspections in Regulated Facilities
- 845.215 Procedures for Lead Risk Assessments in Regulated Facilities
- 845.220 Procedures for Lead Hazard Screens in Regulated Facilities
- 845.225 Compliance Investigation in Regulated Facilities
- 845.230 Record Keeping Requirements for Environmental Investigations for Lead

SUBPART F: STANDARDS FOR LEAD MITIGATION
AND LEAD ABATEMENT

Section

- 845.250 Submissions and Notices
- 845.255 Work Practice and Occupant Protection Program
- 845.260 Personnel Protection Program
- 845.265 Work Area Isolation, Preparation and Containment
- 845.270 Prohibited Work Practices
- 845.275 Safe Work Practices
- 845.280 Guidelines for Abatement and Mitigation of Lead-Contaminated Soil
- 845.285 Clean-Up Procedures

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- 845.290 Disposal Procedures
- 845.295 Reoccupation of the Work Area
- 845.300 Record Keeping Requirements for Lead Mitigation and Lead Abatement Activities

SUBPART G: FINES, PENALTIES AND ADMINISTRATIVE HEARINGS

Section

- 845.350 Denial, Suspension and Revocation of Lead Training Course Approval
 - 845.355 Denial, Suspension and Revocation of Licenses
 - 845.360 Fines and Penalties
 - 845.365 Emergency Stop Work Orders for Regulated Facilities
 - 845.370 Administrative Hearings
-
- 845.APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System
 - 845.EXHIBIT A Instructions for Completing the Laboratory-Based Report of Childhood Lead Poisoning
 - 845.EXHIBIT B Instructions for Submitting Follow-Up Data for Children With Blood Lead Levels ≥ 15 mcg/dL
 - 845.APPENDIX B Information Agreement

AUTHORITY: Implementing and authorized by the Lead Poisoning Prevention Act [410 ILCS 45].

SOURCE: Adopted July 15, 1976; amended at 2 Ill. Reg. 43, effective October 23, 1978; rules repealed; new rules adopted and codified at 6 Ill. Reg. 14849, effective November 24, 1982; amended at 7 Ill. Reg. 7652, effective June 14, 1983; amended at 8 Ill. Reg. 8242, effective May 25, 1984; amended at 10 Ill. Reg. 5138, effective April 1, 1986; amended at 17 Ill. Reg. 1884, effective February 1, 1993; amended at 19 Ill. Reg. 238, effective December 31, 1994; amended at 21 Ill. Reg. 7444, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 14680, effective October 31, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR objection at 22 Ill. Reg. 6252; amended at 22 Ill. Reg. 16000, effective August 20, 1998; amended at 24 Ill. Reg. 11974, effective July 26, 2000; old Part repealed at 32 Ill. Reg. 19019, and new Part adopted at 32 Ill. Reg. 19023, effective November 25, 2008; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 845.30 Warning Statement for Products for Use by Children

DEPARTMENT OF PUBLIC HEALTH

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a) No person, firm, or corporation shall sell, have, offer for sale, or transfer child care articles, children's jewelry, or toys containing paint that contain a total lead content in any component part of the item that is more than 0.004% (40 parts per million) but less than 0.06% (600 parts per million) by total weight unless that item bears a warning statement that indicates that at least one component part of the item contains lead. The warning statement shall contain at least the following: **WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD.** (Section 6 of the Act) The warning statement shall comply with Section 6(d) of the Act.

b) For purposes of this Section, the following definitions apply:

"Child Care Article" means an item that is designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children under the age of 6 or to help with children under the age of 6 who are sucking or teething. (Section 6 of the Act) "Child care article" includes products that are designed or intended to be used directly in the mouth by the child, as well as products that are used to facilitate sleep, relaxation or feeding of children under the age of 6 or help with children under the age of 6 who are sucking or teething and, because of their proximity to the child, are likely to be mouthed, chewed, sucked or licked.

"Children's Jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of 12 and includes jewelry that meets any of the following conditions:

Represented in its packaging, display, or advertising as appropriate for use by children under the age of 12;

Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children under 12;

Sized for children and not intended for use by adults; or

Sold in any of the following places:

a vending machine;

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a retail store, catalogue, or online Web site in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

a discrete portion of a retail store, catalogue, or online Web site in which a person offers for sale products that are packaged, displayed or advertised as appropriate for use by children. (Section 6 of the Act)

"Toy Containing Paint" means a toy with any external coating, including, but not limited to, paint, ink, lacquer, or screen printing, designed for or intended for use by children under the age of 12 at play. In determining whether a toy containing paint is designed for or intended for use by children under the age of 12, the following factors shall be considered:

A statement by a manufacturer about the intended use of the product, including a label on the product, if such statement is reasonable;

Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for children under the age of 12; and

Whether the product is commonly recognized by consumers as being intended for use by a child under the age of 12. (Section 6 of the Act)

- c) If any component part of a child care article or children's jewelry contains more than 0.004% (40 parts per million) but less than 0.06% (600 parts per million) lead, the item will be subject to the requirements of Section 6(b) of the Act.
- d) If the external coating of a toy containing paint contains more than 0.004% (40 parts per million) but less than 0.06% (600 parts per million) lead, the item will be subject to the requirements of Section 6(b) of the Act.
- e) The manufacturer or importer of record shall be responsible for compliance with this Section and with Section 6 of the Act.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENT

(Source: Added at 34 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Trifecta
- 2) Code Citation: 11 Ill. Adm. Code 306
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
306.20	Repeal
306.30	Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends Section 306.30, Minimum Fields, by reducing the minimum field size for thoroughbred racing to carding 5 and scratching down to 4. The minimum field size for standardbreds will remain, card 6 and scratch down to 5. The minimum field size in both breeds will apply to all races including stakes races. Section 306.20, Entries, will be repealed to simplify the trifecta rule and also be more comparable to other racing jurisdictions.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago, Illinois 60601

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

Section	
306.10	Definition
306.20	Entries (<u>Repealed</u>)
306.30	Minimum Fields
306.40	Pool Distribution
306.50	Dead Heats
306.60	Scratches

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

SOURCE: Adopted at 19 Ill. Reg. 15225, effective November 1, 1995; amended at 24 Ill. Reg. 7397, effective May 1, 2000; amended at 26 Ill. Reg. 4900, effective March 20, 2002; amended at 26 Ill. Reg. 12355, effective August 1, 2002; amended at 27 Ill. Reg. 5024, effective March 7, 2003; amended at 30 Ill. Reg. 2651, effective February 21, 2006; amended at 30 Ill. Reg. 10459, effective June 1, 2006; amended at 31 Ill. Reg. 8518, effective June 1, 2007; amended at 32 Ill. Reg. 10139, effective July 1, 2008; amended at 34 Ill. Reg. _____, effective _____.

Section 306.20 Entries (Repealed)

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

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

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 306.30 Minimum Fields

- a) Trifecta wagering shall not be scheduled on a thoroughbred race unless at least fivesix betting interests are carded. In the event of a scratch, trifecta wagering on a thoroughbred race in which fourfive betting interests remain is permissible; ~~provided there are no uncoupled entries.~~
- b) Trifecta wagering shall not be scheduled on a standardbred race unless at least six betting interests are carded. In the event of a scratch, trifecta wagering on a standardbred race in which five betting interests remain is permissible. ~~This Section shall not be applicable to Stakes Races.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
311.35	Amend
311.40	Repeal
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends Section 311.35, Minimum Fields, by reducing the minimum field size for thoroughbred racing to carding 6 and scratching down to 5. The minimum field size for standardbreds will remain, card 7 and scratch down to 6. The minimum field size in both breeds will apply to all races including stakes races. Section 311.40, Entries, will be repealed to simplify the superfecta rule and also be more comparable to other racing jurisdictions.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago, Illinois 60601

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 311
 SUPERFECTA

Section	
311.10	Superfecta
311.20	Pool Distribution
311.25	Scratches
311.30	Dead Heats
311.35	Minimum Fields
311.40	Entries <u>(Repealed)</u>

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

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days; emergency expired February 12, 2003; emergency amendment at 26 Ill. Reg. 16854, effective November 15, 2002, for a maximum of 150 days; emergency expired April 13, 2003; amended at 28 Ill. Reg. 7121, effective May 10, 2004; amended at 29 Ill. Reg. 14024, effective September 1, 2005; amended at 30 Ill. Reg. 2654, effective February 21, 2006; amended at 30 Ill. Reg. 10463, effective June 1, 2006; amended at 31 Ill. Reg. 8522, effective June 1, 2007; amended at 32 Ill. Reg. 13525, effective August 1, 2008; amended at 34 Ill. Reg. 2320, effective January 27, 2010; amended at 34 Ill. Reg. _____, effective _____.

Section 311.35 Minimum Fields

- a) Superfecta wagering shall not be scheduled on a thoroughbred race unless at least sixseven betting interests are carded. In the event of a scratch, superfecta wagering on a thoroughbred race in which fivesix betting interests remain is permissible, ~~provided there are no uncoupled entries.~~
- b) Superfecta wagering shall not be scheduled on a standardbred race unless at least

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

~~seven betting interests are carded. In the event of a scratch, superfecta wagering on a standardbred race in which six betting interests remain is permissible. This Section shall not be applicable to stakes races.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 311.40 Entries (Repealed)

- a) ~~Entries, either coupled or uncoupled, shall be allowed in a superfecta race under the following conditions:~~
- 1) ~~one entry requires at least seven betting interests at the start of the race except, in the event of a scratch, superfecta wagering on a race in which six betting interests remain is permissible, provided there are no uncoupled entries.~~
 - 2) ~~two entries require at least eight betting interests at the start of the race.~~
 - 3) ~~more than two entries shall require approval from the Stewards.~~
- b) ~~For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.~~
- c) ~~For stakes races with a minimum purse of \$100,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.~~
- d) ~~This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Horsemen's Bookkeeping System Licensees
- 2) Code Citation: 11 Ill. Adm. Code 450
- 3) Section Numbers: 450.10 Proposed Action: Amend
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking requires a Horseman's Bookkeeping System Licensee to secure a contract with a racetrack (organization licensee) and/or the horsemen's association.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 450

HORSEMAN'S~~HORSEMEN'S~~ BOOKKEEPING SYSTEM LICENSEES

Section	
450.10	Criteria for Eligibility
450.20	License Application
450.30	Time of Filing an Application
450.40	Application from Corporation
450.50	Grounds for Denial of an Application
450.60	Change of Officers or Directors
450.70	Audit
450.80	License Deemed Personal

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

SOURCE: Adopted at 33 Ill. Reg. 11884, effective August 1, 2009; amended at 34 Ill. Reg. _____, effective _____.

Section 450.10 Criteria for Eligibility

An applicant for an occupation license as an operator of a horseman's bookkeeping system shall:

- a) have a contract to provide a horseman's bookkeeping system with an organization licensee and/or the organization representing the largest number of horse owners and trainers;
- b) either:
 - 1) have operated a horseman's bookkeeping system at a pari-mutuel race meeting in Illinois for at least 3 years prior to the effective date of this Part; or

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 2) provide the Board evidence that the applicant has the experience and expertise to operate a horseman's bookkeeping system at the race meeting at which the applicant proposes to participate in Illinois racing;
- c) provide the Board with a current Table of Organization, Ownership and Control in sufficient detail to identify the individuals that manage, own or control the interests and assets of the applicant; and
- d) establish, maintain, update and provide to the Board an Internal Control System that is subject to audit, with the cost of the audit borne by the occupation licensee.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

ILLINOIS ELECTRONIC RECORDING COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Illinois Electronic Recording Commission
- 2) Code Citation: 14 Ill. Adm. Code 1400
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1400.10	New Section
1400.20	New Section
1400.30	New Section
- 4) Statutory Authority: 765 ILCS 33/5(h)
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Public Act 95-472, this rulemaking establishes uniform standards for the electronic recording of property documents with County Recorders within the State of Illinois.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the proposed rules is posted on the Secretary of State's website, <http://www.cyberdriveillinois.com/> as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Arlene J. Pulley
Administrative Rules Coordinator
Office of the Secretary of State
Driver Services Department

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2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any business that wishes to electronically file real property documents with the county recorder.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This Part was not included on either of the two most recent agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

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TITLE 14: COMMERCE

CHAPTER IV: ILLINOIS ELECTRONIC RECORDING COMMISSION

PART 1400

ILLINOIS ELECTRONIC RECORDING COMMISSION

Section

1400.10	Definitions
1400.20	Incorporated and Referenced Materials
1400.30	Electronic Recording

AUTHORITY: Implementing and authorized by Section 5 of the Uniform Real Property Electronic Recording Act [765 ILCS 33/5].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

Section 1400.10 Definitions

For purposes of this Part, the following definitions shall apply:

"County Recorder" or "Recorder" – the county land records official, who is the County Recorder, County Clerk and Recorder or land records official designated by the County Board.

"Data Fields" – the discreet pieces of information contained in a document that are transcribed into the corresponding County Recorder's electronic document index. Examples are document type, consideration, grantee, grantor, legal description, street address, city, state and zip code.

"Document Rejection" – the act of the County Recorder refusing to accept a document for recording, based on the submitter having not met some statutory or county requirement.

"Document Submission" – the act of submitting a document to the County Recorder for recording.

"Document Type Definition" or "DTD" – a document created using the Standard Generalized Markup Language (SGML) that defines a unique markup language

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(such as XML or XHTML). A DTD includes a list of tags, attributes and rules of usage.

"Electronic Acceptance" – the act of the County Recorder accepting a submitted document for recording through electronic means.

"Electronic Delivery Process" – the process that begins with preparing the document for transmission to the Recorder, the transmission and reception at the County Recorder's office.

"Electronic Document" – a document that is received by a County Recorder, in an electronic form, meeting the document standards of this Part and the county.

"Electronic Notary" – a notary acknowledgement of a document, by means of an electronic notary signature and stamp.

"Electronic Recording" or "E-recording" – the process of a County Recorder accepting, recording and indexing a document in an electronic form instead of by paper submission.

"Electronic Recording Submission" – the act of submitting a document to the County Recorder via electronic means.

"Electronic Recording System" – the computer program, and the hardware components that host it, that receives electronic documents for recording.

"Electronic Signature" – an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document. Electronic signatures must meet any statutory requirement of the State of Illinois for such signatures.

"E-Recording Submitter" – the party sending a document to the County Recorder using electronic means. The submitter may be the same entity as the E-Recording Submitting Vendor.

"E-Recording Submitting Vendor" – the entity that offers the service to an E-Recording Submitter, providing the software and/or electronic system to transmit a document, via electronic means, to the County Recorder.

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"Formatting" – the appearance attributes of the document.

"Index" – the electronic catalog of information about documents in the Recorder's office.

"Land Records System" – the computer software or electronic system used by a Recorder's office to index and store both document images and searchable attributes that identify the document.

"Land Records System Vendor" – an entity outside the Recorder's office that programs or produces the Land Records System for the Recorder. This entity can be a state, county or private enterprise.

"Metadata" – commonly described as "data about data". Metadata is used to locate and manage information resources by classifying those resources and by capturing information not inherent in the resource.

"Open Architecture" – the attributes of the reception software that are public and discernable by the submitting software vendor.

"Paper Submissions" – the documents submitted to the County Recorder printed on paper or other physical media.

"Portable Document Format" or "PDF" – a file format created by Adobe Systems, Inc. that uses the PostScript printer description language to create documents. PDF files capture the appearance of the original document, can store both text and images, are difficult to modify and can be rendered with free, cross-platform viewer software.

"Portal" – a website considered as an entry point to other websites, often by being or providing access to useful content and/or functioning as a gateway to other web locations.

"PRIA" – the Property Records Industry Association.

"Receiving Party" – The County Recorder's office that receives the e-recording document for recording and the entity that receives the electronic document as recorded or rejected from the County Recorder.

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"Reception" – the receiving of the document in the County Recorder's office.

"Recording Fee" – any fee imposed by statute or county ordinance, charged by the County Recorder for recording a document.

"Submitter" or "Submitting Party" – the entity that originates the e-recording document or delivers it to the Transmitting Party for transmission to the County Recorder.

"Tagged Image File Format" or "TIFF" – a non-proprietary, defined format for storing images.

"Transfer Declaration" or "Form PTAX-203" – the sales disclosure document required by Illinois statute to accompany the recording of a deed.

"Transfer Tax" – a tax imposed on the privilege of transferring title to real estate located in Illinois, on the privilege of transferring a beneficial interest in real property located in Illinois, and on the privilege of transferring a controlling interest in a real estate entity owning property in Illinois, pursuant to Section 31-10 of the Real Estate Transfer Tax Law.

"Transmitting Party" – the entity that transmits the document to the County Recorder. This can be the submitter, but is usually a service that specializes in transmitting electronic documents to a County Recorder.

Section 1400.20 Incorporated and Referenced Materials

a) Incorporations by Reference

The following materials are incorporated by reference in this Part:

Property Records Industry Association (PRIA)
2501 Aerial Center Parkway, Ste. 103
Morrisville NC 27560
Telephone: 919.459.2081; FAX: 919.459.2075

eRecording XML Implementation Guide for Version 2.4.1 DTD,
Revision 2 (3/05/07);

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URPERA Enactment and eRecording Standards Implementation Guide
(1/4/06), sections 2.3.1, 2.3.2 and 2.3.3.

- b) All incorporations by reference listed in this Section are as of the date specified and include no later amendments or editions.
- c) Referenced Statutes
 - 1) Uniform Real Property Electronic Recording Act [765 ILCS 33].
 - 2) Real Estate Transfer Tax Law [35 ILCS 200].
 - 3) Counties Code [55 ILCS 5].
 - 4) Local Records Act [50 ILCS 205].
 - 5) Electronic Commerce Security Act [5 ILCS 175].
 - 6) Illinois Notary Public Act [5 ILCS 312].
 - 7) Electronic Signatures in Global and National Commerce Act (15 USC 96).

Section 1400.30 Electronic Recording

- a) Electronic recording is a delivery method for submitting documents to the County Recorder. This Part applies to the handling of the document in that electronic delivery process, its security and storage of the image and indexing information by the Recorder. This Part does not override any Illinois statute.
- b) For electronic document submission, reception, formatting and data fields, the State of Illinois adopts PRIA standard 2.4.1, which is comprised of the following: Document Version 2.4.1 DTD, Notary Version 2.4.1, PRIA Request Version 2.4.2, and PRIA Response Version 2.4.2.
- c) The County Recorder may determine which of the three types of e-recording the county will accept, model one, two or three, as described in PRIA URPERA Enactment and eRecording Standards Implementation Guide, sections 2.3.1, 2.3.2 and 2.3.3.

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- 1) If a County Recorder utilizes model three to accept e-recording, the Recorder must also accept documents filed in accordance with models one and two.
 - 2) If a County Recorder utilizes model two to accept e-recording, the Recorder must also accept documents filed in accordance with model one.
- d) Each county that accepts e-recording shall provide open architecture for reception of electronic documents and shall issue such technical specifications as are necessary for an e-recording submitter to conform document transmissions to the county land indexing and/or e-recording system software. The technical specifications shall be published on the County Recorder's website or made available on request. If the technical specifications for acceptance of a document have been developed by a land records system vendor, those specifications shall be provided to the County Recorder upon request to meet these provisions. The electronic document submissions of any entity meeting the reception standards of the county shall be accepted for e-recording.
 - e) Application to become an e-recording submitting vendor, with any county, shall be directed to the County Recorder via an application that is published on the Recorder's website or made available at no charge upon request.
 - f) Fees for documents e-recorded shall be the same as for paper documents, in conformance with Section 3-5018 of the Counties Code, to the extent applicable to documents submitted electronically. No additional fee for e-recording access to the county, or fee per document, shall be charged by the county or any county land records system vendor, provider, programmer or computer system host. This subsection shall not be interpreted to apply to the services or fees of the e-recording submitting vendor.
 - g) No county shall be required to enter into any mandatory portal requirement. Individual counties may enter into portal agreements with the provider of their choice and with other counties, at the discretion of the County Recorder. Any web portal used shall meet all the requirements of this Part for each participating individual county.
 - h) Each County Recorder shall establish and publish on his or her website or by hard copy, available by request, business rules for electronic recording in the county. Business rules shall include, but are not limited to, the following topics:

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- 1) defined technical specifications, which may be incorporated by reference to sources cited in this Part;
 - 2) document and indexing specifications;
 - 3) hours during which electronic submissions will be accepted and processing schedules that affect order of acceptance;
 - 4) payment options for all recording fees and applicable transfer taxes;
 - 5) terms under which an entity may submit documents for e-recording and specified reasons for which a County Recorder may terminate submissions;
 - 6) document rejection rights and procedure;
 - 7) adequate notice before changes to business or technical rules takes effect; and
 - 8) identification of the venue of any litigation arising between the parties.
- i) All electronic documents shall be secured in such a way that both the transmitting and receiving parties are assured of each other's identity and that no unauthorized party can view or alter the electronic document during transmission, processing and delivery. If the electronic document has been subject to those security measures identified in Chapter 6 of the PRIA eRecording XML Implementation Guide For Version 2.4.1, Revision 2 throughout the entire electronic submission, the security obligations under PRIA standards have been satisfied.
 - j) County Recorders are only required to record documents containing electronic signatures and notary acknowledgements that they have the technology to support. Recorders have no responsibility to authenticate electronic signatures or notary acknowledgement stamps embedded within the body of the document. Any electronic signature or notarization submitted to a County Recorder shall comply with the Electronic Commerce Security Act and the Electronic Signatures in Global and National Commerce Act insofar as the Illinois Uniform Real Property Electronic Recording Act does not supercede those laws, the Illinois Notary

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Public Act and any other laws governing that signature or notarization, as applicable.

- k) If necessary, images of e-recordings will be converted to, and preserved under, the electronic file format established by the county. If the county has no previously established file format, images will be stored as either TIFF or PDF files, along with their associated metadata. Any document submitted under model three of PRIA 2.4.1 DTD submissions shall be converted to TIFF or PDF for archiving.
- l) The County Recorder shall only accept e-recording submissions during open office hours approved by the County Board in conformance with Section 3-5017 of the Counties Code. The Recorder shall publish criteria on his or her website, or make the criteria available by request, setting forth provisions to preserve the time of recording in the order of reception with paper documents, in conformance with Section 3-5010 of the Counties Code.
- m) County Recorders shall retain all records of e-submissions in accordance with the storage of paper submissions described in Section 3-5010 of the Counties Code and Section 1-15 of the Local Records Act.
- n) Upon the effective date of this Part, contracts entered into between any Illinois county and any software provider hosting or programming a county land records system or any contract and agreement affecting electronic recording of documents in a County Recorder's office shall comply with this Part.

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill. Adm. Code 2700
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2700.110	Amendment
2700.200	Amendment
2700.400	Amendment
2700.410	Amendment
2700.450	Amendment
2700.710	Amendment
- 4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 USC 457 et seq.) and implementing and authorized by Section 22A-11.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-11.1 and Art. 24]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments seek to implement Public Act 96-806 (the Act), which allows certain health care providers who provide services under State programs to participate in the State of Illinois Deferred Compensation Plan (Plan). Under the Act, a health care provider means a dentist, physician, optometrist, pharmacist, or podiatrist that participates and receives compensation as a provider under the Illinois Public Aid Code, the Children's Health Insurance Act or the Covering ALL KIDS Health Insurance Act (collectively, Program). Health care providers who provide services under the Program may elect, in lieu of receiving direct payment for those services, to participate in the Plan. Health care providers may defer compensation for services up to the deferral limit and receive remaining compensation through direct payment. Those health care providers who elect to participate in the Plan will be considered "employees" for purposes of administration of the Plan. Within the proposed amendments, certain enrollment, investment and other administrative provisions have been amended to clarify how health care providers will participate. The proposed amendments also make technical changes, clarify beneficiary distribution elections and provide a limitation on includable compensation, in order to comply with changes made under Internal Revenue Code Section 415.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: No
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, explain or modify their activities.
- 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 Illinois State Board of Investment (the Board) will consider all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Linsey Schoemehl
Investment Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago, IL 60610

Linsey.Schoemehl@illinois.gov

312/793-1486 (voice)
312/793-2266 (fax)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking enables health care provider participation in the Plan, as mandated by Public Act 96-806. Actual participation by health care providers in the Plan will necessitate internal reporting, bookkeeping and similar administrative procedures within the Illinois Department of Human and Family Services (HFS) and the Illinois Department of Central Management Services (CMS). The Board, HFS and CMS, collectively, held meetings to discuss the

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internal procedures required to implement Public Act 96-806 and developed a plan for implementation.

- C) Types of professional skills necessary for compliance: None that are not already in place.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on a regulatory agenda.

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section	
2700.100	Establishment of Plan
2700.110	Purpose of Plan
2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)
2700.125	Forms

SUBPART B: DEFINITIONS

Section	
2700.200	Definitions

SUBPART C: ADMINISTRATION

Section	
2700.300	Responsibilities of the Department
2700.310	Responsibilities of the Board
2700.311	Standards Governing the Selection of Investment Options
2700.315	Responsibilities of the Recordkeeper
2700.320	Deferred Compensation Hardship Committee
2700.330	Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section	
2700.400	Eligibility
2700.410	Enrollment
2700.415	Designation of Beneficiary
2700.420	Minimum Deferral
2700.430	Basic Annual Limitation

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- 2700.435 Age 50 Catch-up Annual Deferral Contribution
- 2700.440 Special Section 457 Catch-up Limitation
- 2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section

- 2700.500 Normal Retirement Age
- 2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section

- 2700.600 Deferred Compensation Accounts
- 2700.610 Allocation of Investment Earnings or Losses
- 2700.620 Investment Option Valuation
- 2700.630 Administrative Costs
- 2700.640 Method of Making Investment Requests
- 2700.650 Participant Statements
- 2700.660 Custodial Account
- 2700.670 Investment Options
- 2700.680 Rollovers to the Plan
- 2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section

- 2700.700 Distribution Events
- 2700.710 Beneficiary Election of Method of Distribution
- 2700.720 Election of Delayed Distribution Date (Repealed)
- 2700.730 Election of Method of Distribution
- 2700.735 Distribution for Certain Balances of \$5,000 or Less
- 2700.740 Unforeseeable Emergency
- 2700.745 Plan-to-Plan Transfers from the Plan
- 2700.750 Permissive Service Credit Transfers
- 2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

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Section

2700.800	Nonassignability
2700.810	Payments to Minors and Incompetents
2700.820	Missing Persons
2700.830	Severability
2700.840	Days and Dates
2700.850	Domestic Relations Orders
2700.860	IRS Levy
2700.870	Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section

2700.900	Amendment of Plan
2700.910	Termination of Plan
2700.920	Merger with Prior Plans

2700.APPENDIX A	Administrative Rules (Repealed)
2700.EXHIBIT A	Administrative Rule I (Repealed)
2700.EXHIBIT B	Administrative Rule II (Repealed)
2700.EXHIBIT C	Administrative Rule III (Repealed)
2700.EXHIBIT D	Administrative Rule IV (Repealed)
2700.EXHIBIT E	Administrative Rule V (Repealed)
2700.EXHIBIT F	Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days;

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amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006; amended at 33 Ill. Reg. 13451, effective September 14, 2009; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section 2700.110 Purpose of Plan

- a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board in accordance with section 457 of the Code until Severance ~~from~~ Employment, Unforeseeable Emergency or death of the Employee.
- b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois or otherwise convey a right to continue to perform services for the State.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

- a) Whenever used in the Plan, the following terms shall have the meanings set forth in this Section unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment Option (net of Investment Option expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account

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established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Code).

"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of section 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash compensation paid by the Employer~~Compensation~~ for personal services rendered to the State as an Employee, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a Compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. With respect to health care providers, Compensation also includes "compensation" as defined under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act [40 ILCS 5/24-102].

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

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"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving Compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve. Employee also means a dentist, physician, optometrist, pharmacist, or podiatrist that participates and receives Compensation as a provider under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act [40 ILCS 5/24-102].

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as

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may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

~~"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.~~

"Includible Compensation" means the Employee's compensation within the meaning of Code section 415(c)(3) (i.e., amounts reported in Box 1 of Form W-2, plus amounts that would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b)), but not in excess of \$245,000 (as adjusted in accordance with section 401(a)(17)(B) of the Code) for any Plan Year, limitation year, or calendar year, as applicable. The remuneration shall not include any severance pay, whether paid before or after an Employee's Severance from Employment. In addition, Includable Compensation shall not include other compensation paid after an individual's Severance from Employment; provided that, to the extent that the following amounts are otherwise included in the definition of remuneration and are paid no later than 2½ months after Severance from Employment or, if later, the end of the limitation year in which the severance occurs, the amounts paid after an Employee's Severance from Employment shall be deemed remuneration:

regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses or other similar payments; and

payment for unused accrued sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued, and payment received pursuant to a nonqualified, unfunded deferred compensation plan sponsored by the Employer, but only if the Employee would have received the payment at the same time if employment had continued and only to the extent the payment is includible in the Employee's gross income.

The exclusions provided for in this definition with respect to post-employment

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payments shall not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service, to the extent the payments do not exceed the compensation the individual would have received from the Employer if he or she had continued to perform services for the Employer.

"Investment Option" means any and all investment vehicles established by the Board for the investment of Deferred Compensation.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Minority Option" means an Investment Option with a minority-owned firm that has documented State certification.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance ~~from~~ Employment as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part.

"Participant" means any individual who is currently deferring Compensation, or who has previously deferred Compensation~~any Employee who has enrolled~~ in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account. Only individuals who perform services for the eligible employer, either as an employee or as an independent contractor, may defer compensation under this Plan.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly or in another timeframe specified by the Employer.

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"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

"Recordkeeper" means the non-fiduciary, non-discretionary entity that, under contract with the Board, performs functions as directed by the Board or Department, as appropriate, as described in this Part, in its contract with the Board, and as described in any other written agreements with the Board and/or the Department.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

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For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor, including a health care provider defined in 40 ILCS 5/24-102, is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Option is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Options until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

- b) Except when otherwise indicated by context, any masculine terminology shall also include the feminine and neuter and vice-versa, and the definition of any terms in the singular may also include the plural.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.400 Eligibility

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All Employees shall be eligible to participate in the Plan and defer Compensation immediately upon becoming employed by, or engaged to perform services for, the State.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2700.410 Enrollment

- a) Any Employee eligible to participate in the Plan may become a Participant by agreeing in writing, on a form to be provided under the Plan, to a deferral of his or her Compensation.
- b) The deferral shall commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the agencyAgency payroll has not closed, and provided that the form is completed in the month prior to the month in which the deferrals commence. Notwithstanding the foregoing, with respect to health care providers as defined in 40 ILCS 5/24-102, the election shall become effective no sooner than the calendar month following the month in which the form is properly completed by the Employee, accepted by the Department, and for which the applicable payment processing period has not closed.
- c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State and before the first day of the month in which deferrals commence.
- d) The amount to be deferred shall be selected by the Participant and will be agreed to at the time of enrollment. This amount may not be less than the minimum amount allowable or exceed the basic annual limitation as provided for in Section 2700.430 of this Part.
- e) The amount deferred may be changed by the Participant at any time. The change shall become effective no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee and accepted by the Department. Notwithstanding the foregoing, with respect to health care providers as defined in 40 ILCS 5/24-102, a change shall become effective no sooner than the calendar month following the month in which the form is properly completed by the Employee and accepted by the Department.

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- f) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The Department shall also withdraw and return to the Participant the excess amount deferred.
- g) Deferrals can be made by reductions in Compensation only.
- h) The Participant election shall also include the designation of Investment Options and a designation of Beneficiary. This election shall remain in effect until a new election is filed.
- i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2700.450 Revocation of Deferral

- a) Any Participant may revoke his or her election to have Compensation deferred by completing the Revocation Section of the Enrollment Form.
- b) Following notice of revocation, the Participant's full Compensation shall be restored as soon as possible. In no case shall deductions continue later than the Pay Period occurring 30 days after receipt of the revocation form and any other forms requested by the Department to fulfill the requirements of the Office of the Comptroller or any other State agency. Notwithstanding the preceding sentence, with respect to health care providers as defined in 40 ILCS 5/24-102, in no case shall deductions continue later than 30 days after receipt of the revocation form and any other forms requested by the Department to fulfill the requirements of the Office of the Comptroller or any other State agency.
- c) The Department shall suspend a Participant's deferrals for the remainder of the calendar year when the Participant has deferred in excess of the allowable maximum and shall withdraw and return the excess amount deferred consistent with Section 2700.440(f) of this Part.

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- d) Revocation shall not cause distribution of the Participant's Account.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART G: DISTRIBUTIONS

Section 2700.710 Beneficiary Election of Method of Distribution

- a) Commencing in the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum.
- b) Alternatively, if the Beneficiary with respect to the Participant's Account Balance is a natural person, at the Beneficiary's election, distribution can be made in annual installments (calculated in a manner that is similar to installments under Section 2700.730 of this Part) with the distribution period determined in the following manner:
- 1) If the Beneficiary is the Participant's surviving spouse, the distribution period is equal to the Beneficiary's life expectancy using the single life table in 26 CFR 1.401(a)(9)-9, A-1 (2005) for the spouse's age on the spouse's birthday for that year.
 - 2) If the Beneficiary is not the Participant's surviving spouse, the distribution period is the Beneficiary's life expectancy determined in the year following the year of the Participant's death using the single life table in 26 CFR 1.401(a)(9)-9, A-1 (2005) for the Beneficiary's age on the Beneficiary's birthday for that year, reduced by one for each year that has elapsed after that year.
- c) Any Beneficiary without a life expectancy (i.e., an estate) may elect a lump sum distribution as described in subsection (a) or, alternatively, a distribution by installments over 5 years. This distribution may be made in monthly, quarterly, semi-annual, or annual installments as established by the Beneficiary at the time of the initial election.
- d) For any year, a Beneficiary can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under subsection Section 2700.710(b).

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organization and Public Information
- 2) Code Citation: 2 Ill. Adm. Code 6000
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
6000.230	Amended
6000.250	Amended
6000.260	Amended
6000.APPENDIX A	Amended
- 4) Statutory Authority: Eastern Illinois University Law [110 ILCS 665/10-25] and implementing Section 5-15 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-15]
- 5) Effective Date of Amendments: April 1, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: These rules are published pursuant to Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No, these are required rules.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and purpose of amendments: The purpose of these amendments is to include changes in the Freedom of Information Act [5 ILCS 140] and the organization chart of the university.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Robert L. Miller
General Counsel
Eastern Illinois University
600 Lincoln Avenue
Charleston IL 61920

217/581-7249

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

BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE F: EDUCATIONAL AGENCIES

CHAPTER XX: BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

PART 6000

ORGANIZATION AND PUBLIC INFORMATION

SUBPART A: INTRODUCTION AND ORGANIZATION

Section	
6000.100	Purpose
6000.110	Board Membership
6000.120	Board Meetings
6000.130	Agenda of Board Meetings
6000.140	Minutes of Board Meetings
6000.150	Accessibility of Board Meetings

SUBPART B: PUBLIC INFORMATION

Section	
6000.200	Freedom of Information Officer
6000.210	Form and Content Requests
6000.220	Inspection and Copying of Records
6000.230	Fees
6000.240	Denial of Requests (Repealed)
6000.250	Response
6000.260	Appeals

SUBPART C: RULEMAKING

Section	
6000.300	Rulemaking

SUBPART D: PURCHASING RULES

Section	
6000.400	Access to Purchasing Rules

6000.APPENDIX A Organizational Chart

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AUTHORITY: Implementing Section 4 of the Freedom of Information Act [5 ILCS 140/4] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 3g of the Freedom of Information Act [5 ILCS 140/3g] and by Section 10-25 of the Eastern Illinois University Law [110 ILCS 665/10-25].

SOURCE: Adopted at 22 Ill. Reg. 9560, effective May 22, 1998; amended at 22 Ill. Reg. 19536, effective October 22, 1998; amended at 23 Ill. Reg. 5544, effective April 22, 1999; amended at 26 Ill. Reg. 18235, effective December 13, 2002; amended at 34 Ill. Reg. 5615, effective April 1, 2010.

SUBPART B: PUBLIC INFORMATION

Section 6000.230 Fees

- a) The fee for copies of public records on letter or legal size paper shall not exceed \$.15 per page. No fee shall be charged for the first 50 pages of black and white copies25 per page. For copies which cannot be made on available standard office copying equipment, a reasonable fee will be charged by the Freedom of Information Officer to cover the actual cost of producing the copies by other means. For preparation in printed form of computer stored data, a reasonable fee will be charged by the Freedom of Information Officer to cover the actual cost of programming, computer usage, and printing. The fee for certification shall not exceed \$1.00 per document or set of documents. The fee for mailing copies will be the actual postage.
- b) Fees shall be reduced or waived if the person requesting copies of documents states the specific purpose for the request and demonstrates to the satisfaction of the Freedom of Information Officer that the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or legal rights of the general public and not to provide personal or commercial benefit. In setting the amount of the waiver or reduction, the Freedom of Information Officer may take into consideration the amount of materials requested and the cost of copying them.

(Source: Amended at 34 Ill. Reg. 5615, effective April 1, 2010)

Section 6000.250 Response

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The Freedom of Information Officer shall respond to each request for access to public records within ~~five business~~seven working days after its receipt, unless the response time is extended for an additional period of not more than ~~five business~~seven working days [5 ILCS 140/3]. The response shall be by letter mailed to the person making the request and shall approve the request in its entirety, approve the request in part and deny it in part, or deny the request in its entirety. If the request is denied, the letter shall state the reasons for the denial and the names and titles of each person responsible for the denial. Each notice of denial shall also inform the requestor of the right to judicial review and review by the Public Access Counselor~~appeal the denial to the President of the University.~~

(Source: Amended at 34 Ill. Reg. 5615, effective April 1, 2010)

Section 6000.260 Appeals

- a) Persons whose request for access to public records has been denied in whole or in part may request a review by the Public Access Counselor~~appeal to the President of Eastern Illinois University.~~
- b) Persons whose request for access to public records has been denied in whole or in part may request judicial review pursuant to 5 ILCS 140/11.~~b) Appeals shall be in writing and should be accompanied by a copy of the request for access to public records, a copy of the denial (if a written denial was provided), and a statement of the reasons the appeal should be granted. Appeals shall be decided within seven working days after receipt, and a notice of the decision shall be mailed to the person submitting the appeal. Failure to respond to an appeal within this time limit shall be considered a denial of the appeal.~~

(Source: Amended at 34 Ill. Reg. 5615, effective April 1, 2010)

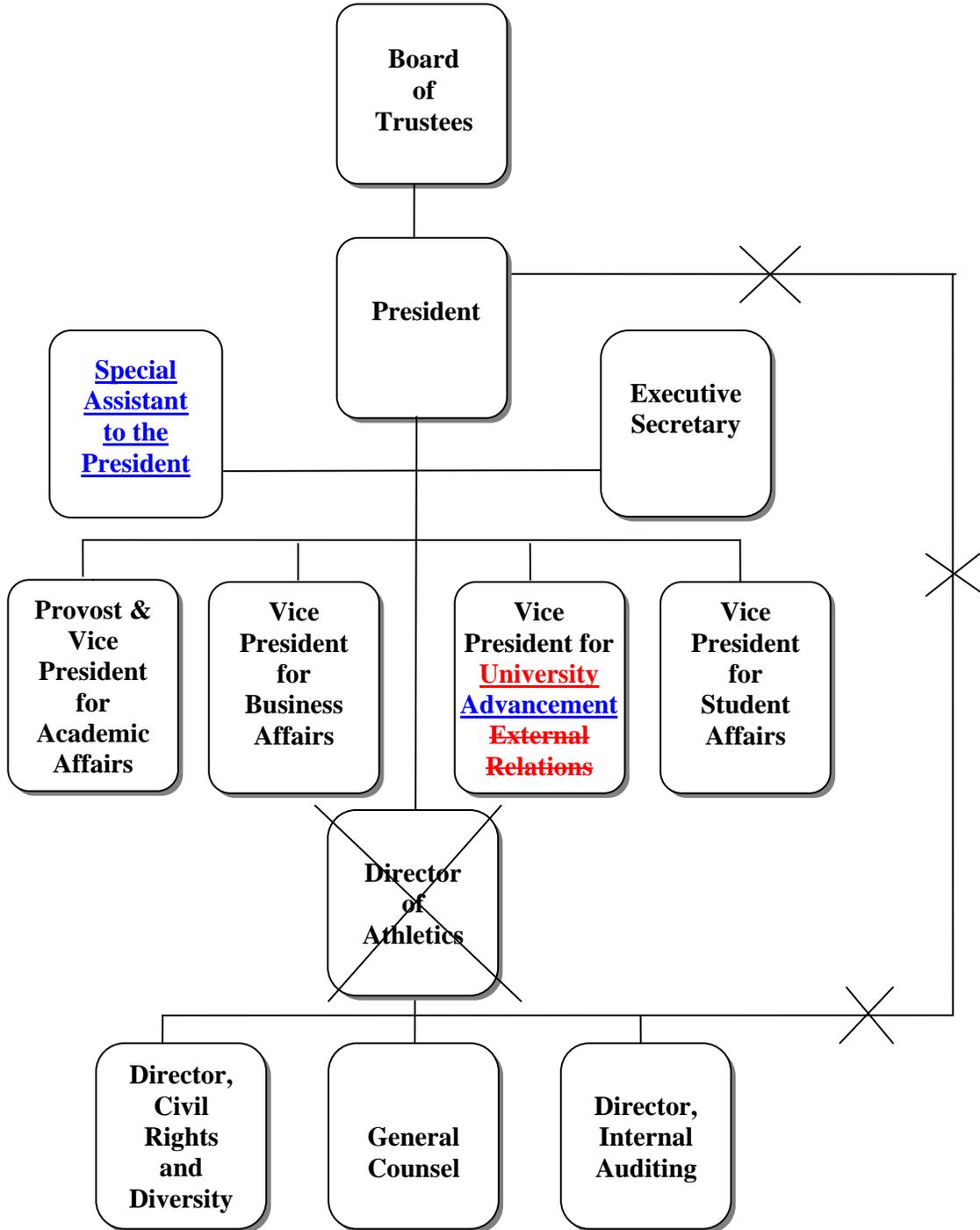
BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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Section 6000.APPENDIX A Organizational Chart

BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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(Source: Amended at 34 Ill. Reg. 5615, effective April 1, 2010)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Professional Engineering Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1380
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1380.210	Amendment
1380.220	Amendment
1380.240	Amendment
1380.250	Amendment
1380.260	Amendment
1380.270	Amendment
1380.275	Amendment
1380.280	Amendment
1380.285	Amendment
1380.290	Amendment
1380.296	Amendment
1380.300	Amendment
1380.305	Amendment
1380.310	Amendment
1380.320	Amendment
1380.325	Amendment
- 4) Statutory Authority: The Professional Engineering Practice Act of 1989 [225 ILCS 325]
- 5) Effective Date of Amendments: March 30, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: June 19, 2009; 33 Ill. Reg. 8008
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No substantive differences.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking is primarily clean-up. A definition of "technical submissions" is added to Section 1380.296 for clarification. The Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) is added as an acceptable alternative for applicants educated in a foreign country. Various non-substantive changes are also made, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of various agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Obsolete language is also removed, and other nonsubstantive changes are made.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF **FINANCIAL AND** PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1380

THE PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

Section

1380.210	Approved Engineering Program
1380.220	Definition of Degree in a Non-approved Engineering Program or a Related Science Curriculum
1380.230	Approved Experience
1380.240	Application for Enrollment as an Engineer Intern by Examination
1380.250	Application for Licensure as a Professional Engineer by Examination
1380.260	Examination
1380.270	Restoration
1380.275	Fees
1380.280	Endorsement
1380.285	Inactive Status
1380.290	Professional Design Firm
1380.295	Seal Requirements
1380.296	Acts Constituting the Practice of Professional Engineering Pursuant to Section 4 of the Act
1380.300	Standards of Professional Conduct
1380.305	Professional Engineer Complaint Committee
1380.310	Renewals
1380.320	Granting Variances
1380.325	Professional Development
1380.APPENDIX A	Significant Dates for the Administration of Section 19 of the Act – Endorsement

AUTHORITY: Implementing the Professional Engineering Practice Act of 1989 [225 ILCS 325] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Professional Engineering Act, effective March 10, 1976; codified at 5 Ill. Reg. 11055; codified and amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448,

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effective June 15, 1982; Part repealed at 9 Ill. Reg. 10038, effective June 18, 1985; new Part adopted at 9 Ill. Reg. 10040, effective June 18, 1985; amended at 10 Ill. Reg. 19507, effective November 5, 1986; amended at 11 Ill. Reg. 8767, effective April 20, 1987; recodified from Chapter I, 68 Ill. Adm. Code 380 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1380 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2942; amended at 14 Ill. Reg. 247, effective December 28, 1990; amended at 15 Ill. Reg. 17729, effective November 26, 1991; amended at 16 Ill. Reg. 15553, effective September 28, 1992; amended at 18 Ill. Reg. 14737, effective September 19, 1994; amended at 19 Ill. Reg. 16076, effective November 17, 1995; amended at 20 Ill. Reg. 6477, effective April 25, 1996; amended at 21 Ill. Reg. 13839, effective October 1, 1997; amended at 22 Ill. Reg. 16516, effective September 3, 1998; amended at 24 Ill. Reg. 625, effective December 31, 1999; amended at 24 Ill. Reg. 13727, effective August 28, 2000; amended at 26 Ill. Reg. 4688, effective March 11, 2002; amended at 27 Ill. Reg. 13301, effective July 16, 2003; amended at 34 Ill. Reg. 5623, effective March 30, 2010.

Section 1380.210 Approved Engineering Program

- a) The Department of [Financial and Professional Regulation-Division of Professional Regulation \(Division\)](#) shall, upon the recommendation of the State Board of Professional Engineers (the Board), approve an engineering program as reputable and in good standing if it meets the following minimum criteria:
- 1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering.
 - 2) Faculty
 - A) The faculty shall have a sufficient number of full-time, or full-time equivalent, instructors to make certain that the educational obligations to the student are fulfilled. A program at the basic level shall have no fewer than 3 full-time faculty members whose primary commitment is to that program. If an institution relies on part-time faculty members, it shall demonstrate that, in addition to the commitment of at least 3 full-time equivalent faculty members, effective mechanisms are in place to provide adequate levels of student advising and faculty interaction, and faculty control over the curriculum.

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- B) The faculty shall have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions. Other evidence of faculty capability includes non-academic engineering experience, experience in teaching, ability to communicate effectively, participation in professional, scientific and other learned societies, licensure as a professional engineer and an interest in students' curricular activities.
- C) Teaching loads shall allow time for research and professional development activities. Stimulation of students' minds requires faculty involvement in scientific and technological development and in instructional innovation.

3) Curriculum

- A) The curriculum shall include at least 4 academic years leading to the awarding of the baccalaureate degree while providing integration of the educational experience with the ability to apply the knowledge gained to the identification and solution of practical problems.
- B) The overall curriculum shall include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall include at least the following subjects:
 - Mathematics (beyond trigonometry) – 15 hours.
 - Physics and Chemistry – 15 hours.
 - Engineering Sciences – 30 hours.
 - Engineering Design – 15 hours.
 - Humanities/Social Sciences – 15 hours.
- C) Mathematics shall be beyond trigonometry, and include differential and integral calculus, and differential equations at the baccalaureate level. Mathematics shall also include, but shall not

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be limited to, the study of probability, statistics, numerical analysis and advanced calculus. Courses in computer usage and/or programming shall not be used to satisfy the mathematics requirement.

- D) Engineering sciences have their roots in mathematics and basic sciences but carry the knowledge toward creative application. Such subjects include, but are not limited to, mechanics, thermodynamics, electric and electronic circuits, material science and other subjects depending upon the engineering discipline.
- E) Engineering design involves the conversion of resources to predetermined objectives. Course requirements shall include the establishment of objectives and criteria, synthesis, analysis, construction, testing and evaluation which develop student creativity through open-ended problems and consideration of alternative solutions. The inclusion of realistic constraints, such as economic factors, safety, aesthetics, ethics and social impact is appropriate. Examples of subjects in these areas include design of circuits, machines, power networks, process equipment and systems and water treatment.
- F) Humanities and social sciences are, respectively, the branches of knowledge that concern man and his culture, and that concern individual relationships in and to society. Examples of subjects in these areas are philosophy, history, literature, fine arts, religion, sociology, psychology, political science, economics and foreign languages (other than a student's native language). Non-traditional courses might include social responsibility and professional ethics. Subjects such as accounting and management may be acceptable engineering electives, but do not satisfy the objectives of this area.
- G) Laboratory experience is essential to an engineering education at both theoretical and practical levels.
- H) Computer-based experience shall be included in the program of each student. The program shall include technical computations, problem solving, data acquisition and usage, process control and computer-assisted design. The student shall have access to

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computational facilities in order to integrate these techniques into the program.

- I) The program shall require that the student demonstrate competency in both written and oral communication.
 - J) An understanding of ethical, social, economic and safety considerations shall be included in the engineering program.
 - K) For those institutions that elect to prepare a student to enter the profession at the advanced level, the curriculum shall satisfy the criteria set forth in this Section at the basic level, and shall include at least one year of additional study. That year shall include at least $\frac{2}{3}$ of a year of advanced mathematics, basic sciences, engineering sciences and engineering design. Of this component, at least $\frac{1}{3}$ of a year shall be devoted to engineering design. The program shall be designed toward a meaningful individual course of study and include thesis, research and/or special projects.
- 4) Facilities
- A) The laboratory facilities shall reflect the requirements of the offered educational program. The laboratory should provide for individual project work by the students and the faculty. The facilities shall be equipped with instruments and scientific equipment of a kind and quality to ensure the effective functioning of the laboratory.
 - B) The libraries in support of the engineering program shall be both technical and nontechnical, to include books, journals and other reference material for collateral reading in connection with the instructional and research programs and professional work. The library collection shall reflect the existence of an active acquisition policy; this policy shall include specific acquisitions on the request and recommendation of the faculty of the engineering program. There shall be computer-accessible information centers and inter-library loan services for both books and journals. The library collections, whether centralized or decentralized, shall be readily available for use with the assistance of trained library staff, or

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through an open-stack arrangement, or both.

- C) There shall be computer facilities accessible to the engineering students and faculty.
- 5) The institution shall maintain permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.
- b) In determining whether a program should be approved, the ~~Division~~Department shall take into consideration but not be bound by accreditation by the Accreditation Board for Engineering and Technology (ABET).
- c) The ~~Division~~Department, upon the recommendation of the Board, has determined that ~~all~~ engineering programs accredited ~~by or determined equivalent~~ by the Engineering Accreditation Commission of ABET meet the minimum criteria set forth in subsection (a), ~~above~~, for an approved engineering program and are, therefore, approved, subject to review.
- 1) The Division, upon the recommendation of the Board, has determined that the signed Mutual Recognition Program agreement between ABET and the Canadian Engineering Accrediting Board (CEAB) of the Canadian Council of Professional Engineers (CCPE) is considered to have met the minimum criteria as equivalent to the ABET accredited programs and are, therefore, approved, subject to review.
- 2) The Division, upon the recommendation of the Board, does not recognize ABET "substantially equivalent" programs as meeting the minimum criteria set forth in subsection (a) for an approved engineering program and are, therefore, not approved.
- d) Withdrawal of Program Approval
- 1) The following are grounds for withdrawal of approval of an engineering program or a program leading to a degree in basic engineering.
- A) Non-compliance with any provisions of the Professional Engineering Practice Act of 1989 [225 ILCS 325] (the Act);

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- B) Non-compliance with any provision of this Part;
 - C) Fraud or dishonesty in furnishing documentation for evaluation of the program; or
 - D) Failure to continue to meet the criteria of an approved program as set out in this Section.
- 2) If the Board has reason to believe there has been any fraud or dishonesty in the furnishing of any documentation for the evaluation of a program on the part of any licensee, it shall refer such matter to appropriate ~~Division~~~~Department~~ personnel for any disciplinary action which might be appropriate under the Act.
- 3) A program whose approval is being reconsidered by the ~~Division~~~~Department~~ shall be given 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board.
- e) Evaluation of Newly Submitted Programs
- 1) An educational institution with a program that has not been evaluated will cause to be forwarded to the ~~Division~~~~Department~~ documentation concerning the criteria in this Section.
 - 2) Once the ~~Division~~~~Department~~ has received the documentation or after 6 months have elapsed from the date of application, whichever is later, the Board will evaluate the program based on all documentation received from the school and any additional information the ~~Division~~~~Department~~ has received ~~that~~~~which~~ will enable the Board to evaluate the program based on the criteria specified in this Section.
- f) For purposes of Section 12(c)(1) of the Act, an approved graduate engineering program shall:
- 1) Grant a Doctor of ~~Philosophy~~~~Philosophy~~ or Doctor of Science degree;
 - 2) Be in a curriculum from an institution with an engineering program which has at least one curriculum for a baccalaureate degree that is approved in

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accordance with Section 1380.210(a) of this Part; and

- 3) Include the following minimum requirements:
 - A) Completion of at least 64 semester hours, or 96 quarter hours, including hours earned toward the master's degree requirements.
 - B) Passing of a preliminary examination.
 - C) Completion of at least an additional 32 semester hours, or 48 quarter hours of thesis research.
 - D) Passing of a final examination.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.220 Definition of Degree in a Non-approved Engineering Program or a Related Science Curriculum

- a) The educational institution shall be legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering or related science.
- b) A degree from a non-approved engineering program or a related science curriculum is a four-year program resulting in a baccalaureate degree which shall include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall include at least the following subjects for the noted semester hours or their equivalent:
 - 1) A Baccalaureate Degree in Engineering from a Non-approved Engineering Program
 - Mathematics (beyond trigonometry, including a sequence in differential and integral calculus) – 15 hours.
 - Physics and Chemistry – 15 hours.
 - Additional Sciences – 10 hours.

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Engineering Sciences and/or Design – 30 hours.

Humanities and/or Social Sciences – 15 hours.

- 2) Related Science Curriculum (such as a Baccalaureate Degree in Chemistry, Physics, or Mathematics)

Mathematics (beyond trigonometry, including a sequence in differential and integral calculus) – 15 hours.

Physics and Chemistry – 15 hours.

Additional Sciences – 40 hours.

Humanities and/or Social Sciences – 15 hours.

- c) The educational curriculum described in subsection (b) above shall be evaluated as of the date of the awarding of the baccalaureate degree except as provided in subsection (d). Additional hours required to earn the baccalaureate degree shall provide the laboratory and computer-based experience, the communication skills and the understanding of ethical, social, economic and safety considerations required of an approved engineering program as provided for in Section 1380.210.
- d) In evaluating the acceptability of an applicant's baccalaureate degree from a non-approved engineering program or a related science curriculum, the Board shall consider courses taken to attain a graduate degree in engineering and/or additional course credits in mathematics, science or engineering as education, when the course work of an applicant with a baccalaureate degree fails to satisfy the requirements of subsection (a) or (b) above. Not more than 15 hours may be made up in mathematics and basic sciences. Education considered in this manner shall not also be credited as engineering experience.
- e) The DivisionDepartment, upon the recommendation of the Board, has determined that educational credit leading to a degree in engineering technology does not meet the requirements for a non-approved engineering program or a related science curriculum in accordance with this Section.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

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Section 1380.240 Application for Enrollment as an Engineer Intern by Examination

- a) An applicant for enrollment as an Engineer Intern shall file an application on forms supplied by the [Division](#)~~Department~~ by November 15 for the spring examination or by May 15 for the fall examination. The application shall include:
- 1) Either:
 - A) Completed college certification form showing receipt of a baccalaureate degree from an approved engineering program as set forth in Section 1380.210 of this Part; or
 - B) Completed college certification form showing receipt of a baccalaureate degree from a non-approved engineering program or related science curriculum evidenced by an official transcript of educational credit, and verification of at least 4 years of experience on forms, completed by the supervisors.
 - i) An applicant shall have acquired the experience required by this Section prior to review by the Board;
 - ii) Applicants who received their education in a foreign country shall have the education evaluated, at their expense. Applicants shall obtain the forms [from NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178. Evaluations completed prior to October 30, 2006](#) from Engineering Credentials Evaluation International (ECEI), ~~211 East Lombard Street #357, Baltimore, Maryland 21202~~ [are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees.](#) The transcript review required by Section 8 of the Act is separate from the detailed institutional review conducted to determine that the curriculum meets the requirements of Section 1380.210. The review of the transcripts by the Board will be to determine equivalency with the educational requirements of non-approved engineering program set forth in Section 1380.220(b)(1);

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- iii) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359;
 - 2) The required fee specified in Section 1380.275;
 - 3) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university;
 - 4) ~~A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act;~~5) Proof of passage of the [Test of English as a Foreign Language Internet Based Test \(TOEFL-iBT with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language \(TOEFL\) with a minimum score of 550 or 213 on the computer-based test and the Test of Spoken English \(TSE\) with a minimum score of 50](#), for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.
- b) An applicant in an approved engineering program shall be eligible to be seated for the first available Fundamentals of Engineering examination during the 12 months prior to graduation if the applicant provides a certification stating that he/she is expected to graduate by the end of that 12 month period. The applicant shall be allowed to retake the examination during that 12 month period if he/she fails on the first attempt. However, an applicant who passes the Fundamentals of Engineering examination prior to graduation will not be enrolled as an Engineer Intern until the ~~Division~~Department has received certification of graduation, as required by subsection (a)(1)(A). If certification of graduation is not received within one year after the first examination is taken, the results of the examination

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will be void and the examination will have to be retaken.

- c) Upon receipt of the application and all supporting documentation in complete order:
- 1) Persons with degrees from an approved engineering program will be notified of their eligibility to register for Part I of the examination, examination filing deadline and the required examination fee as provided for in Section 1380.275;
 - 2) The files of persons with degrees from a non-approved engineering program or related science curriculum will be presented to the Board for evaluation of the required experience and education based on the criteria specified in Sections 1380.220 and 1380.230. Once the applications have been approved, those persons will be notified of their eligibility to register for Part I of the examination, examination filing deadline and the required examination fee as provided for in Section 1380.275.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.250 Application for Licensure as a Professional Engineer by Examination

- a) Applicant enrolled as an Engineer Intern
- 1) An applicant shall have acquired all experience required by Section 1380.240 prior to review by the Board.
 - 2) An applicant for licensure as a professional engineer who is enrolled as an Engineer Intern shall file an application on forms supplied by the ~~Division~~Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 8 of the Act, the following:
 - A) Experience verification forms completed by the supervisors, indicating the required 4 years of experience earned. For Engineer Interns enrolled with a degree from a non-approved engineering program or related science curriculum, experience verification forms shall be completed for the entire 8 years of required experience.

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- B) For persons who were certified or enrolled as an Engineer Intern or Engineer-in-training in another state or territory:
- i) A certification of such enrollment from the appropriate state board, including the date of the examination.
 - ii) Completed college certification form showing degree received and, if the degree was not received from an approved engineering program, an official transcript of educational credit.
 - iii) Applicants who received their education in a foreign country shall have the education evaluated at their expense. The applicant shall obtain the forms from NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178. Evaluations completed prior to October 30, 2006 from Engineering Credentials Evaluation International (ECEI), ~~211 East Lombard Street #357, Baltimore, Maryland 21202~~ are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees. The transcript review required by Section 8 of the Act does not entail the detailed institutional review in order to determine that the curriculum meets the requirements set forth in Section 1380.210. The review by the Board will be to determine equivalency with the educational requirements of a non-approved engineering program set forth in Section 1380.220(b)(1).
 - iv) Proof of passage of the Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its

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territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.

- v) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359.
- C) The required fee specified in Section 1380.275.
- D) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university.
- E) ~~A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.~~
- 3) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of the required education and experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for Part II of the examination, examination filing deadline and the required examination fee as provided for in Section 1380.275.
- b) Applicant not enrolled as an Engineer Intern
 - 1) An applicant shall have acquired all experience as required in Section 1380.240 prior to review by the Board.
 - 2) An applicant for registration as a professional engineer who is not enrolled

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or certified as an Engineer Intern shall file an application on forms supplied by the ~~Division~~Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 8 of the Act, the following:

- A) Education and Experience:
- i) A degree from an approved Engineering Program. Completed college certification form showing receipt of a baccalaureate degree from an approved engineering program, and completed experience verification forms completed by the supervisors, indicating the required 4 years of experience.
 - ii) A degree from a non-approved Engineering Program or Related Science Curriculum. Completed college certification form showing receipt of a baccalaureate degree from a non-approved engineering program or related science curriculum; an official transcript of educational credit; and completed experience verification forms completed by the supervisors, indicating the required 8 years of experience.
 - iii) Applicants who received their engineering education in a foreign country shall have the education evaluated at their expense. The applicant shall obtain the forms from [NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178. Evaluations completed prior to October 30, 2006 from](#) Engineering Credentials Evaluation International (ECEI) [are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees, 211 East Lombard Street #357, Baltimore, Maryland 21202.](#) The transcript review required by Section 8 of the Act does not entail the detailed institutional review in order to determine that the curriculum meets the requirements set forth in Section 1380.210. The review by the Board will be to determine equivalency to the educational requirements of a non-

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approved engineering program set forth in Section 1380.220(b)(1).

- iv) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359.
 - B) The required fee specified in Section 1380.275.
 - C) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university.
 - ~~D)~~ ~~A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.~~
 - DE) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer-based test and Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.
- 3) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of education and required experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for both Part I and Part II of the examination, examination filing deadline, and

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the required examination fee as provided for in Section 1380.275.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.260 Examination

- a) The examination for licensure as a professional engineer shall be divided into two Parts, each Part being 8 hours in duration. If an applicant wishes only to be enrolled as an Engineer Intern, and if he or she otherwise qualifies under Section 1380.240, he or she shall be required to take only Part I of the examination.
 - 1) Part I – Fundamentals of Engineering Examination shall consist of problems or other examining techniques designed to evaluate the applicant's knowledge of the basic and engineering sciences and related subjects normally considered as the fundamentals of an engineering education.
 - 2) Part II – Principles and practice of Engineering Examination shall consist of problems or other examining techniques relating to designs in or to the practice of professional engineering as described in Section 4(o) of the Act.
- b) The examination administered by the ~~Division~~**Department** shall be provided by the National Council of Examiners for Engineering and Surveying (NCEES). The specific examination content shall be as determined by periodic evaluations of the test specifications by NCEES.
- c) Part I of the examination will be waived for an applicant who is licensed as a structural engineer and who received such license by passing the fundamentals of engineering examination administered under the Structural Engineering Licensing Act of 1989 [225 ILCS 340].
- d) The scoring of the examinations and determination of scores shall be as approved by NCEES. Separate scores shall be given for Part I and Part II and shall be reported as pass or fail.
- e) An applicant who sits for both Parts I and II of the examination and passes only Part I shall be eligible to be enrolled as an Engineer Intern.

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- f) Retake of Examination.
- 1) Applicants shall be required to retake only the Part(s) on which a passing score was not achieved.
 - 2) *If an applicant neglects, fails without an approved excuse, or refuses to take the next available examination offered for licensure under this Act within 3 years after filing the application, the fee paid by the applicant shall be forfeited and the application denied. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing the application, the application shall be denied. However, such applicant may thereafter make a new application for examination, accompanied by the required fee (Section 9(b) of the Act). New applications shall include proof of meeting the qualifications for examination in effect at the time of such new application except as provided in subsection (g).*
- g) Successful scores of previously passed Parts of the examination shall be accepted for the purposes of licensure provided the applicant has met all other requirements for licensure as outlined in the Act. For such purposes, the most recent score on a Part(s) shall be the score of record. In no circumstances shall the ~~Division~~Department accept a previous passing score on a Part(s) for an applicant whose score of record is a failing score.
- h) A candidate who fails an examination may not review his/her examination booklet or the associated answer sheets. Rescoring of the examination or any individual problem is not permitted; however, a retabulation of the numerical score will be permitted.
- i) If an applicant has failed an examination, the examination may not be waived for licensure.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 1020)

Section 1380.270 Restoration

- a) A licensee seeking restoration of a license which has expired for 5 years or less shall have the license restored upon application to the ~~Division~~Department and payment of the required fee specified in Section 1380.275 and proof of 30 professional development hours in accordance with Section 1380.325 completed

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within 2 years prior to the restoration application.

- b) A licensee seeking restoration of a license which has been placed on inactive status for 5 years or less shall have his [or her](#) certificate restored upon application to the [Division](#)~~Department~~ and payment of the current renewal fee specified in Section 1380.275 and proof of successful completion of 30 professional development hours in accordance with Section 1380.325 completed within 2 years prior to the restoration application.
- c) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the [Division](#)~~Department~~ for review by the Board, together with proof of successful completion of 30 professional development hours in accordance with Section 1380.325 completed within 2 years prior to the restoration application and the fee required by Section 1380.275. The licensee shall also submit either:
 - 1) Sworn evidence of active practice in another jurisdiction for at least the last 2 years. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;
 - 2) An affidavit attesting to military service as provided in Section 17 of the Act;
 - 3) Proof of passage of Part II of the examination provided in Section 1380.260 within the 5 years preceding restoration; or
 - 4) Other evidence of continued competence in professional engineering. Other evidence shall include, but not be limited to:
 - A) Employment in a responsible capacity by a licensed professional engineer as determined by the Board;
 - B) Lawfully practicing professional engineering as an employee of a governmental agency;
 - C) Teaching professional engineering in a college or university or educational programs; or

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- D) Attendance at educational programs in professional engineering or a related field, including, but not limited to, attendance at graduate level engineering courses, professionally oriented continuing education classes or special seminars.
- d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 17 of the Act will be required to pay only the current renewal fee.
- e) When the accuracy of any submitted documentation, of the relevance or sufficiency of the course work or experience is questioned by the Division~~Department~~ because of discrepancies or conflicts in information, information needing further clarification, and/or missing information, the licensee seeking restoration of his or her license will be requested to:
- 1) provide such information as may be necessary; and/or
 - 2) explain such relevance or sufficiency during an oral interview; or
 - 3) appear for an interview before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon recommendation of the Board, and approval by the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation (Director), an applicant shall have his or her license restored or will be notified of the reason for the denial of such application for restoration.
- f) If an applicant is denied restoration under subsection (c)(4), the applicant's license may be restored by taking and passing Part II of the examination as provided in Section 1380.260.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.275 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees.

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- 1) The fee for application for a license as a professional engineer is \$100.
 - 2) The application fee for a certificate of enrollment as an engineer intern is \$20.
 - 3) The application fee for a certificate of registration as a professional design firm is \$75.
 - 4) In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
- b) Renewal Fees.
- 1) The fee for the renewal of a license shall be calculated at the rate of \$30 per year.
 - 2) The fee for renewal of a certificate of registration as a professional design firm is \$75 for the renewal period (see Section 1380.310(c)).
- c) General Fees.
- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on ~~Division~~Department records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.

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- 4) The fee to have the scoring of an examination administered by the [Division](#)~~Department~~ reviewed and verified is \$20 plus any fee charged by the testing service.
 - 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
 - 6) The fee for a roster of persons licensed as professional engineers or engineer interns in this State shall be the actual cost of producing the roster.
- d) Additional Fees.
- 1) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50.
 - 2) If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fee for a returned check, an additional fee of \$100 shall be imposed.
 - 3) The fees imposed by this Section are in addition to any other discipline provided under the Act for unlicensed practice or practice on a nonrenewed license. The [Division](#) ~~will~~~~Department shall~~ notify the person that fees shall be paid to the Department by certified check or money order within 30 calendar days after the notification.
 - 4) If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the [Division](#) ~~will~~~~Department shall~~ automatically terminate the license or certificate or deny the application without hearing.
 - 5) If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the [Division](#)~~Department~~ for restoration or issuance of the license or certificate and pay all fees due to the Department. The Department may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application.

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- 6) The Director may waive the fees due under this Section in individual cases ~~when~~ where the Director finds that the fees would be unreasonable or unnecessarily burdensome.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.280 Endorsement

- a) Any person who holds an unexpired certificate of registration or license to practice professional engineering, issued under the laws of another state or territory of the United States or the District of Columbia and who desires to become licensed by endorsement shall file an application, on forms provided by the ~~Division~~ Department, together with:
 - 1) The required fee specified in Section 1380.275.
 - 2) Proof of meeting requirements substantially equivalent to those in force in this State at the time of original or subsequent licensure by examination in the other jurisdiction, including certification of education, and verification of experience.
 - 3) A certification by the jurisdiction of original licensure and certification of current licensure from the jurisdiction of predominant active practice including the following:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) The basis of licensure and a description of all licensure examinations by which the applicant was licensed in that jurisdiction and the date of successful passage of ~~the~~ such examinations; and
 - C) Whether the records of the licensing authority contain any record of disciplinary action taken or pending against the applicant.
 - 4) ~~A complete work history, on forms provided by the Department.~~ 5) If the

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qualifications of the applicant at the time of original licensure did not meet the requirements in effect at that time for licensure in this State, the applicant may submit additional certifications from other jurisdictions to indicate meeting the qualifications in effect in this State at the time of any later licensure.

- 5)6) In lieu of the documentation specified in subsections (a)(2), (3) and (5) ~~above~~, an applicant may submit a current Council Record and Certification of Verification from NCEES.
- 6)7) Applicants who received their education in a foreign country and who were originally licensed in another jurisdiction after January 1, 1996 shall have the education evaluated, at their expense. Applicants shall obtain the forms from NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178. Evaluations completed prior to October 30, 2006 from Engineering Credentials Evaluation International (ECEI) are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees from the National Council of Examiners for Engineers (NCEES), P.O. Box 1686, Clemson, South Carolina 29633-1686. The transcript review required by Section 8 of the Act is separate from the detailed institutional review conducted to determine that the curriculum meets the requirements of Section 1380.210. The review of the transcripts by the Board will be to determine equivalency to the educational requirements of Basic Engineering set forth in Section 1380.220(b)(1).
- 7)8) Proof of passage of the Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50 for applicants originally licensed after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program which the applicant graduated was taught in English.
- 8)9) The ~~Division~~Department may, in individual cases, upon the

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recommendation of the Board, waive a portion of the examination requirements after consideration of the quality of an applicant's engineering education and experience, including whether he or she has graduated from an approved engineering program, has achieved special honors or awards, has had articles published in professional journals, has participated in the writing of textbooks relating to professional engineering, and any other attribute which the Board accepts as evidence that such applicant has outstanding and proven ability in the practice of professional engineering.

9)10) Acceptable Experience

- A) Applicants for endorsement having obtained the following acceptable experience, in accordance with Section 1380.230, prior to taking the Principles and Practice of Engineering Examination shall be considered in compliance with the experience requirements of Section 10 of the Act:
- i) Under Section 10(a) of the Act, at least 3 years and 9 months of acceptable experience after receipt of the baccalaureate degree, or
 - ii) Under Section 10(b) of the Act, at least 7 years and 9 months of acceptable experience after receipt of the baccalaureate degree.
- B) Applicants not meeting the requirements of subsection (a)(10)(A) at the time of original or subsequent examination shall retake the Principles and Practice of Engineering Examination after meeting the necessary requirements.

10)11) Appendix A of this Part outlines the licensure requirements in force during various periods and should be consulted by the applicant to aid in the evaluation of his/her qualifications.

- b) The Division~~Department~~ shall examine each endorsement application to determine whether the qualifications of the applicant at the time of original or subsequent licensure were substantially equivalent to the requirements then in force in this state. The Division~~Department~~ shall either issue a license by

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endorsement to the applicant or notify such applicant of the reasons for the denial of the application. An applicant not qualified for licensure by endorsement will automatically be reviewed under the provisions of Section 1380.250.

- c) When the accuracy of any submitted documentation [listed in subsection \(a\)](#), or the relevance or sufficiency of the course work or experience is questioned by the [DivisionDepartment](#) or the Board, because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking a license will be requested to:
- 1) Provide such information as may be necessary;
 - 2) Appear for an oral interview before the Board; and/or
 - 3) Applicants who were licensed prior to January 1, 1996, upon review of the educational requirements may be required to have their education evaluated at their expense as set forth in subsection (a)(7).
- d) The [DivisionDepartment](#) shall either issue a license by endorsement to the applicant or notify such applicant of the reasons for the denial of the application. An applicant not qualified for licensure by endorsement will automatically be reviewed under the provisions of Section 1380.250.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.285 Inactive Status

- a) Any licensed professional engineer who notifies the [DivisionDepartment](#) in writing on forms prescribed by the [DivisionDepartment](#) may elect to place his [or her](#) license on inactive status and shall be excused from the payment of renewal fees until he [or she](#) notifies the [DivisionDepartment](#) in writing of his [or her](#) desire to resume active status.
- b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1380.270 of this Part.
- c) Any licensed professional engineer whose license is on inactive status shall not practice engineering in the State of Illinois. Practicing or offering to practice on a license which is on inactive status shall be considered unlicensed activity and

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shall be grounds for discipline pursuant to Section 24 of the Act.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.290 Professional Design Firm

- a) Persons who desire to practice professional engineering in this State in the form of a corporation, professional service corporation, partnership, limited liability company, limited liability partnership, or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) shall, in accordance with Section 23 of the Act, file an application with the ~~Division~~Department, on forms provided by the ~~Division~~Department, together with the following:
- 1) For Corporations or Professional Service Corporations. (Registration as a professional design firm shall meet the registration requirements of Section 12 of the Professional Service Corporation Act [805 ILCS 10/12].)
 - A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is a licensed design professional.
 - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the Corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required. The purpose clause of the Articles of Incorporation or certificate of authority shall designate that the corporation is authorized to provide engineering services. Each corporation shall remain active and in good standing with the Secretary of State in order to maintain a professional design firm registration.
 - C) A signed and dated resolution of the board of directors of the corporation designating a regular full-time employee of the corporation who is an Illinois licensed professional engineer as the

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managing agent in charge of the engineering activities in Illinois. The Illinois license number of the professional engineer designated as the managing agent shall also be included in the resolution.

- D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the corporation, if applicable.
 - E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
- 2) For Partnerships.
- A) General
 - i) A copy of the signed and dated partnership agreement authorizing the partnership to provide professional engineering services. The agreement shall contain the name of the partnership, its business address and the names of all general partners. The name of the state in which each partner is licensed as a design professional and the license number shall be listed on the application.
 - ii) A signed and dated resolution of the general partners designating a regular full-time employee of the partnership who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State. The license number of the managing agent shall be included in the resolution.
 - iii) A copy of the partnership documentation bearing the stamp of the county clerk where the partnership has been filed.
 - iv) A letter or certificate from the county clerk where an assumed name has been filed, if applicable.
 - B) Limited Partnership
 - i) A copy of the signed and dated partnership agreement

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indicating that it has been filed with the Secretary of State authorizing the partnership to provide professional engineering services. The partnership agreement shall contain the name of the partnership, its business address and the name of each partner. The name of the state in which each partner is licensed as a design professional and the license number shall be listed on the application.

- ii) A signed and dated resolution adopted by the partners designating a full-time employee of the partnership who is an Illinois licensed professional engineer in this State as the managing agent in charge of the engineering services. The Illinois license number of the professional engineer designated as the managing agent shall also be included in the resolution.
 - iii) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
 - iv) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the partnership, if applicable.
- 3) For Limited Liability Companies or Limited Liability Partnerships.
- A) An application containing the name of the limited liability company or partnership, the business address and the members/partners of the company/partnership, the name of the state in which each is licensed and the license number of each design professional who is a member or partner.
 - B) A signed and dated resolution of the members or partners designating a regular full-time employee of the company who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State. The license number of the managing agent shall also be included in the resolution.

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- C) A copy of the operating agreement or partnership agreement filed with the Secretary of State stating the company or partnership is authorized to offer engineering services.
 - D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the limited liability company or partnership, if applicable.
 - E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
- 4) For Sole Proprietorships with an Assumed Name.
- A) An application containing the name of the sole proprietorship and its business address and the name and Illinois license number of the professional engineer who owns and operates the business.
 - B) A letter or certificate from the county clerk where an assumed name has been filed.
- 5) A list of all office locations at which the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship provides engineering services.
- 6) The fee required in Section 1380.275.
- b) A professional design firm may designate more than one managing agent in charge of professional engineering activities. However, a licensee designated as the managing agent may not serve as a managing agent for more than one corporation, professional service corporation, limited liability company/partnership or partnership doing business in Illinois.
- c) Upon receipt of the ~~above~~ documents listed in subsection (a) and review of the application, the ~~Division~~Department shall issue a registration authorizing the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to engage in the practice of professional engineering or notify the applicant of the reason for the denial of the application.

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- d) Each corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship shall be responsible for notifying the DivisionDepartment within 30 days after any changes in:
- 1) The membership of the board of directors, members/partners of the limited liability company/partnership or the general partners;
 - 2) The licensure status of the general partners, members/partners of the limited liability company/partnership or any of the licensed design professional members of the board of directors; and
 - 3) An assumed name.
- e) Each corporation, professional service corporation, limited liability company/partnership or partnership shall be responsible for notifying the DivisionDepartment, in writing, by certified mail, within 10 business days after the termination or change in status of the managing agent. Thereafter, the corporation, professional service corporation, limited liability company/partnership or partnership, if it has so informed the DivisionDepartment, has 30 days to notify the DivisionDepartment of the name and license number of the professional engineer licensed in Illinois who is the newly designated managing agent.
- f) Any failure to notify the DivisionDepartment as required in subsections (d) and (e) or any failure of the corporation, professional service corporation, limited liability company/partnership or partnership to continue to comply with the requirements of Section 23 of the Act will subject the corporation, limited liability company or partnership to the loss of its registration to practice professional engineering in Illinois.
- g) Sole Proprietorships. A sole proprietorship who is conducting or transacting business under the real name of the professional engineer who has an active Illinois license will not be required to file an application and comply with the requirements set forth in this Section. However, if the sole proprietorship operates under an assumed name, the sole proprietor shall file an application in accordance with subsection (a)(4). Any sole proprietorship not owned and operated by an Illinois licensed professional engineer shall be prohibited from offering engineering services to the public.

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- h) In addition to the seal requirements in Section 14 of the Act, all documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the ~~Division~~Department.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.296 Acts Constituting the Practice of Professional Engineering Pursuant to Section 4 of the Act

- a) The term "technical submissions" is defined by the Board as including, but not limited to, documents submitted for approval to any authority having jurisdiction, and means designs, drawings and specifications that establish the standards of quality for materials, workmanship and equipment and the construction systems, studies and other technical reports prepared in the course of a design professional's practice.
- b) Design/Build
The design/build project delivery process is a method whereby an entity signs a single contract to provide a combination of professional engineering and construction services.
- c) ~~b)~~ The design/build entity will not be required to register as a professional design firm pursuant to Section 23 of the Act only if the services in the design/build project delivery process are provided by the entity in accordance with the following:
- 1) A professional engineer licensed or a professional design firm registered in Illinois independently contracts with the entity and participates substantially in all material aspects of the offering and providing of services relating to any bid process, contract negotiations, design, consultation, development, preparation and coordination of technical submissions, and verification of adherence to technical submissions and completion.
 - 2) At the time of offering services, a written disclosure shall be given to the client by the entity identifying the licensed professional engineer who will be engaged by and is contractually responsible to the entity offering design/build project services.

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- 3) The entity agrees that the licensed professional engineer will have direct supervision of the professional engineering work and the engineering services will not be terminated on the project without immediate replacement by another licensed professional engineer mutually agreed to by the client and the entity.

d)e) A design/build entity shall not offer to provide or provide professional engineering services, unless the design/build entity is an Illinois licensed professional engineer or professional design firm. Offering to provide professional engineering services shall include, but shall not necessarily be limited to, any tender of engineering services either independently or in combination with construction services by any sign, card, advertisement or other device that might indicate to the public that the entity is entitled to provide engineering services.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.300 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of professional engineering, the following Standards of Professional Conduct shall be binding on every person holding a license as a professional engineer and on all corporations authorized to practice professional engineering in this State.

- a) Professional Responsibility. Licensees shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.
 - 1) Licensees shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify their client or employer and such authority(ies) as may be appropriate (which may include the ~~Division~~Department or other law enforcement agencies).
 - 2) Licensees shall approve and seal only those designs prepared by them or

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under their direct supervision and found to be safe for the public health, property and welfare. In circumstances where a licensee in responsible charge of the work is unavailable to complete the work in instances such as death, incapacity, termination of employment or relocation, a successor licensee may take responsible charge by performing all professional services, including design criteria, recalculations, code research and compliance, and any other necessary and appropriate changes, in order to complete the project. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

- 3) Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.
 - 4) Licensees shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.
 - 5) Licensees having knowledge of any alleged violation of any of this Part shall cooperate with the ~~Division~~Department, furnishing such information or assistance as may be required to conduct an investigation resulting from a complaint.
- b) Competence. Licensees shall perform services only in areas of their competence.
- 1) Licensees shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.
 - 2) Licensees shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared by them or under their direct supervisory control.
 - 3) Licensees may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by registrants qualified in those phases.

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- c) Professional Integrity. Licensees shall issue professional statements in an objective and truthful manner.
- 1) Licensees shall be completely objective and truthful in all professional reports, statements or testimony.
 - 2) Licensees may express publicly a professional opinion on technical subjects only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.
 - 3) A licensee, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on engineering matters without first prefacing such comments by explicitly identifying on whose behalf the comments will be made. When the licensee is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client. Such licensee shall reveal any personal interest in the matter.
- d) Conflict of Interest. Licensees shall act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.
- 1) Licensees shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable; however, licensees shall disclose promptly to their employers or clients any business association, interest or circumstance which may influence judgment or quality of services.
 - 2) Licensees shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee makes full disclosure and receives consent of all interested parties.
 - 3) Licensees shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee is a known employee or agent of the supplier.

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- 4) Licensees shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's employer or client in connection with work for which the licensee is responsible.
 - 5) Licensees in public service as members, advisors or employees of a governmental body or department shall not participate in decisions with respect to professional services solicited or provided by them or their organization.
 - 6) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member.
- e) Employment Solicitation. Licensees shall avoid improper solicitation of professional employment.
- 1) Licensees shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.
 - 2) Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.305 Professional Engineer Complaint Committee

- a) The Professional Engineer Complaint Committee of the State Board of Professional Engineers authorized by Sections 7 and 26 of the Act shall be composed of 2 members the State Board of Professional Engineers, a Supervisor over Design Investigations and a Chief of Prosecutions over Design Prosecutions. The Director of Enforcement shall designate the Supervisor and Chief assigned to

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the Complaint Committee.

- b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties set forth in subsection (c) ~~below~~. The Complaint Committee may meet concurrently with the Complaint Committees of the Architecture Licensing Board, Land Surveyors Examining Board and the Structural Engineering Board to discuss interrelated professional matters. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each case file.
- c) The Complaint Committee shall have the following duties and functions:
- 1) To review investigative case files after an initial inquiry into the involved parties and their licensure status have been obtained. "Case file" means the allegation made against an involved party that resulted in a preliminary inquiry and other information being obtained in order to determine whether an investigation should be initiated or prosecution pursued. A "Formal Complaint" means the notice of allegations and charges or basis for licensure denial which begins the formal proceedings.
 - 2) To refer the case file to the Supervisor over the Design Investigators for further action. The Complaint Committee shall give the Supervisor an indication as to the prosecutorial merit and relative severity of the allegations to aid in the prioritization of investigative activity.
 - 3) To recommend that a case file be closed.
 - 4) To recommend that an Administrative Warning Letter be issued and the case file closed.
 - 5) To refer the case file to Prosecutions for review and action.
 - 6) To report the actions of the Complaint Committee at each Board meeting and to present enforcement statistics such as the type of alleged violation.
- d) In determining what action to take or whether to proceed with investigation and prosecution of a case file, the Complaint Committee shall consider the following factors, but not be limited to: the effect on the public's health, safety and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient

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cooperation from complaining parties.

- e) At any time after referral to Prosecutions, the ~~Division~~Department may enter into negotiations to resolve issues informally by way of a Consent Order. Factors to be considered in deciding whether to enter into settlement negotiations shall include, but not be limited to: the effect on the public's health, safety and welfare caused by the respondent's alleged conduct; sufficient investigation of the case; prosecutorial merit; relative severity of the respondent's alleged conduct; and past practices of the ~~Division~~Department.
- f) No file shall be closed nor Formal Complaint dismissed except upon recommendation of the Complaint Committee and/or approval by the State Board of Professional Engineers. Those case files that previously have been before the Board and are the subject of a Consent Order or Formal Order of the Director may be closed without further recommendation or approval of the State Board of Professional Engineers or the Complaint Committee.
- g) Disqualification of a State Board of Professional Engineers member.
 - 1) A Board member shall be recused from consideration of a case file or Formal Complaint when the Board member determines that a conflict of interest or prejudice would prevent that Board member from being fair and impartial.
 - 2) Participation in the initial stages of the handling of a case file, including participation on the Complaint Committee and in informal conferences, shall not bar a Board member from future participation or decision making relating to that case file.
- h) An informal conference is the procedure established by the ~~Division~~Department that may be used for compliance review, fact finding, discussion of the issues, resolving case files, licensing issues or conflicts prior to initiating any Formal Complaint or formal hearing. An informal conference may only be conducted upon agreement of both parties. Informal conferences shall be conducted by a ~~Division~~Department attorney and shall include a member or members~~member(s)~~ of the Board. Board members shall be scheduled for informal conferences on a rotating basis.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

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Section 1380.310 Renewals

- a) Every license issued to an individual under the Act shall expire on November 30 of each odd numbered year. Beginning with the November 30, 2005 renewal and every renewal thereafter, a licensed professional engineer shall comply with the professional development hours specified in Section 1380.325 of this Part. The holder of a license may renew such license for a two-year period during the month preceding the expiration date thereof by paying the fee required by Section 1380.275.
- b) It is the responsibility of each licensee to notify the ~~Division~~Department of any change of address. Failure to receive a renewal form from the ~~Division~~Department shall not constitute an excuse for failure to pay the renewal fee and to renew one's license.
- c) Every license issued to a professional design firm under the Act shall expire on April 30 of each odd-numbered year. The holder of such license may renew that license for a 2-year period during the month preceding the expiration date thereof by paying the required fee.
- d) Practicing or offering to practice on a license which has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 24 of the Act.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.320 Granting Variances

- a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~where he ~~or she~~ finds that:
- 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

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- b) The Director shall notify the Board of the granting of such variance, and the reasons [for granting the variance](#)~~therefor~~, at the next meeting of the Board.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.325 Professional Development

The professional development required as a condition for license renewal under the Professional Engineering Act of 1989 is set forth in this Section. All professional engineers shall meet these requirements.

- a) Professional Development Hours Requirements
- 1) Beginning with the November 30, 2005 renewal and every renewal thereafter, in order to renew a license as a professional engineer, a licensee shall be required to complete 30 professional development hours (PDH) relevant to the practice of professional engineering. Failure to comply with these requirements may result in non-renewal of the professional engineer's license or other disciplinary action, or both.
 - 2) A prerenewal period is the 24 months preceding November 30 of each odd-numbered year.
 - 3) One professional development hour shall equal [a minimum of 50 minutes](#) of instruction or participation. If a program is taken that awards continuing education units (CEU) rather than professional development hours, one CEU equals 10 professional development hours of class in an approved continuing education course.
 - 4) A renewal applicant shall not be required to comply with the professional development requirements for the first renewal of an Illinois license.
 - 5) Professional engineers licensed in Illinois but residing and practicing in other states shall comply with the professional development requirements set forth in this Section.
 - 6) Professional development units used to satisfy the professional development requirements of another jurisdiction may be applied to fulfill

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the professional development requirements of the State of Illinois if they are substantially equivalent.

- b) Professional Development Activities shall include, but not be limited to:
- 1) Successful completion of a college or university course in the area of professional engineering, related sciences and engineering ethics. One semester hour completed shall equal 15 PDHs and one quarter hour shall equal 10 PDHs;
 - 2) Successful completion of professional engineering courses or programs in which professional development hours are earned;
 - 3) Active participation and successful completion of professional engineering programs, seminars, tutorials, workshops, short courses, on-line or in-house courses. Credit will be given for self study courses only if an examination has been completed by the licensee and graded by the sponsor;
 - 4) Attending program presentations at related technical or professional meetings;
 - 5) Teaching or instructing. Teaching credit is valid for teaching a course or seminar for the first time only. Two PDHs will be earned for every hour of teaching. This does not apply to faculty in the performance of their regularly assigned duties;
 - 6) Authoring papers or articles that appear in nationally circulated journals or trade magazines or presented to a university, professional society or organization. ~~A maximum~~ 10 PDHs per paper or presentation, but not both, per renewal are allowed for this activity;
 - 7) Receiving a patent within the renewal period. Ten PDHs may be earned per patent;
 - 8) Active participation on a committee or holding an office in a professional or technical society. Two PDHs will be awarded per committee membership or office held. A maximum of 8 PDHs may be accepted per prerenewal period.

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- c) All professional development programs, activities or courses shall:
- 1) Contribute to the advancement, extension or enhancement of the professional skills and/or scientific knowledge of the licensee in practice of professional engineering;
 - 2) Foster the enhancement of general or specialized practice and values of professional engineering, related sciences and engineering ethics;
 - 3) Be developed and presented by persons with education and/or experience in the subject matter of the program.
- d) It shall be the responsibility of a licensee to maintain a record of PDHs for 6 years that includes, but is not limited to, the following:
- 1) The name and address of the sponsor or provider, the number of hours attended in each program, the date and place of the program and a certificate of attendance; or
 - 2) A log of activities that includes the date and number of hours claiming as PDHs, a brief statement of the subject matter, printed program schedules, registration receipts or other proof of participation; or
 - 3) Transcripts or records of professional development hours maintained by an acceptable provider as set forth in subsection (e).
- e) Acceptable providers for structured educational activities shall include, but not be limited to:
- 1) National Council of Examiners for Engineering and Surveying (NCEES);
 - 2) National Society of Professional Engineers (NSPE);
 - 3) Illinois Society of Professional Engineers (ISPE);
 - 4) American Council of Engineering Companies of Illinois (ACEC-IL)~~Consulting Engineers Council of Illinois (CECI)~~;

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- 5) Technical or professional societies or organizations relating to professional engineering, such as the American Society of Civil Engineers (ASCE);
 - 6) Colleges, universities or other educational institutions;
 - 7) Other technical or professional societies or organizations including manufacturers.
- f) The ~~Division~~~~Department~~ shall not pre-approve individual courses or programs.
- g) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the professional development requirements set forth in this Section.
 - 2) The ~~Division~~~~Department~~ may require additional evidence demonstrating compliance with the CE requirements as set forth in subsection (d). This additional evidence shall be required in the context of the ~~Division's~~~~Department's~~ random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- h) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with PDH requirements, the ~~Division~~~~Department~~ shall restore the license upon payment of the required fee as provided in Section 1380.275.
- i) Waiver of PDH Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these PDH requirements shall file with the ~~Division~~~~Department~~ a renewal application along with the required fee set forth in Section 1380.275, a statement setting forth the facts concerning

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non-compliance and request for waiver of the PDH requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the ~~Division~~~~Department~~, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the ~~Division~~~~Department~~ shall waive enforcement of PDH requirements for the renewal period for which the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the PDH requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the ~~Division~~~~Department~~.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

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- 1) Heading of the Part: The Structural Engineering Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1480
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1480.110	Amendment
1480.120	Amendment
1480.130	Amendment
1480.135	Amendment
1480.140	Amendment
1480.150	Amendment
1480.160	Amendment
1480.170	Amendment
1480.175	Amendment
1480.180	Amendment
1480.185	Amendment
1480.190	Amendment
1480.195	Amendment
1480.200	Amendment
1480.205	Amendment
1480.210	Amendment
1480.215	Amendment
1480.220	Amendment
- 4) Statutory Authority: The Structural Engineering Practice Act of 1989 [225 ILCS 340]
- 5) Effective Date of Amendments: March 30, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: September 25, 2009; 33 Ill. Reg. 13179
- 10) Has JCAR issued a Statement of Objection to these amendments? No

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- 11) Differences between proposal and final version: No substantive differences.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking is primarily clean-up. Section 1480.110 provides clarification and increases the possible credit that may be granted for post-graduate degrees toward the experience requirement. It also clarifies procedures for the review of application files. Section 1480.175 clarifies which examinations meet the seismic requirements and provides an additional means of meeting the seismic requirements. Acceptable activities for continuing education are also clarified. The Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) is added as an acceptable alternative for applicants educated in a foreign country. The amendment makes various nonsubstantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of various agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Other obsolete language is also removed.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

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

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

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

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

PART 1480

THE STRUCTURAL ENGINEERING PRACTICE ACT OF 1989

Section

1480.10	Statutory Authority (Repealed)
1480.20	Licensure (Repealed)
1480.30	Approved Education Qualifications (Repealed)
1480.40	Approved Experience Qualifications (Repealed)
1480.45	Renewals (Renumbered)
1480.50	Restoration of Expired Certificate (Repealed)
1480.60	Granting Variances (Renumbered)
1480.110	Approved Structural Engineering Curriculum
1480.120	Definition of Degree in Related Science
1480.130	Approved Experience
1480.135	Application for Enrollment as a Structural Engineer Intern by Examination
1480.140	Application for Licensure by Examination
1480.150	Examination
1480.160	Restoration
1480.170	Endorsement
1480.175	Seismic Design Requirement
1480.180	Inactive Status
1480.185	Continuing Education
1480.190	Renewals
1480.195	Fees
1480.200	Professional Design Firm
1480.205	Acts Constituting the Practice of Structural Engineering Pursuant to Section 5 of the Act
1480.210	Standards of Professional Conduct
1480.215	Structural Engineer Complaint Committee
1480.220	Granting Variances (Renumbered)

AUTHORITY: Implementing the Structural Engineering Practice Act of 1989 [225 ILCS 340] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

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SOURCE: Adopted at 4 Ill. Reg. 22, p. 242, effective May 15, 1980; amended at 4 Ill. Reg. 44, p. 475, effective October 20, 1980; codified at 5 Ill. Reg. 11068; codified and amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 480 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1480 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2947; emergency amendment at 13 Ill. Reg. 5781, effective April 5, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 13891, effective August 22, 1989; amended at 15 Ill. Reg. 7081, effective April 29, 1991; amended at 17 Ill. Reg. 11162, effective July 1, 1993; amended at 18 Ill. Reg. 14751, effective September 19, 1994; amended at 19 Ill. Reg. 2309, effective February 14, 1995; amended at 19 Ill. Reg. 16081, effective November 17, 1995; amended at 21 Ill. Reg. 13844, effective October 1, 1997; amended at 24 Ill. Reg. 639, effective December 31, 1999; amended at 24 Ill. Reg. 13734, effective August 28, 2000; amended at 26 Ill. Reg. 12271, effective July 24, 2002; emergency amendment at 27 Ill. Reg. 12114, effective July 14, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18990, effective December 5, 2003; amended at 34 Ill. Reg. 5669, effective March 30, 2010.

Section 1480.110 Approved Structural Engineering Curriculum

- a) The Department [of Financial and Professional Regulation-Division](#) of Professional Regulation (~~Division~~the "Department") shall, upon the recommendation of the Structural Engineering Board (the "Board") approve an applicant's engineering or architecture curriculum if the degree is from an educational institution that is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering or architecture.
- b) The curriculum shall be at least 4 academic years, lead to the awarding of the baccalaureate degree, and provide integration of the educational experience with the ability to apply the knowledge gained to the identification and solution of practical problems.
- c) The curriculum of each applicant shall include a minimum of 18 semester hours of courses in the analysis, behavior, and design of structural elements and systems. These courses may include, but not be limited to:
 - 1) Structural analysis courses such as determinate and indeterminate structures and stability; and

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- 2) A minimum of 9 semester hours are required in structural design courses that may include structural steel, reinforced concrete, prestressed concrete, foundation, masonry and wood engineering.
- 3) Courses such as mechanics (statics and dynamics), mechanics of materials, properties of materials, and soil mechanics shall not be included in the minimum 18 semester hours.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.120 Definition of Degree in Related Science

- a) A Degree in Related Science is a four-year curriculum resulting in a baccalaureate degree:
 - 1) from an Accreditation Board for Engineering and Technology (ABET) engineering program; or
 - 2) that includes the indicated minimum number of semester hours in at least the following subjects:
 - Mathematics (beyond trigonometry) – 15 hours.
 - Basic Sciences (Physics and Chemistry) – 15 hours.
 - Additional Sciences and/or Engineering Sciences – 30 hours.
- b) In evaluating the acceptability of an applicant's related science curriculum of a baccalaureate degree, the Board shall consider courses taken to attain a graduate degree in engineering and/or additional course credits in mathematics, science or engineering as education, when the course work of an applicant with a baccalaureate degree fails to satisfy the requirements of subsection (a). Not more than 15 hours may be made up in mathematics and basic sciences. Education considered in this manner shall not also be credited as engineering experience.
- c) The [Division](#)~~Department~~ shall not accept educational courses in engineering technology as meeting the requirements for basic engineering or related science in accordance with this Section.
- d) Mathematics shall be beyond trigonometry, and include differential and integral

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calculus, and differential equations at the baccalaureate level. Mathematics may also include, but not be limited to, the study of probability, statistics, numerical analysis, and advanced calculus. Courses in computer usage and/or programming may not be used to satisfy the mathematics requirement.

- e) Basic sciences shall include basic physics and chemistry, and may also include life sciences, earth sciences, and/or advanced physics and chemistry, as appropriate to the engineering discipline being studied.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.130 Approved Experience

- a) Every application shall be reviewed by the Board to determine whether the applicant's experience meets the requirements described in this Section. Approved experience, other than in accordance with subsection (a)(3), shall have been acquired after receipt of the baccalaureate degree.
- 1) Credit for Graduate Study:
- A) One~~+~~ year of experience shall be given for completion of graduate study resulting in a master's ~~or doctor's~~ degree with an emphasis in structural engineering. The course of study shall include a minimum of 8 semester hours, or their equivalent (e.g., 12 quarter hours), of structural analysis, behavior or design courses.
- B) One year of experience shall be given for completion of graduate study resulting in a doctoral degree with an emphasis in structural engineering and a course of study that includes a minimum of 8 semester hours, or their equivalent (e.g., 12 quarter hours), of structural analysis, behavior or design courses beyond a master's degree. Two years of experience shall be given for completion of graduate study resulting in a doctoral degree with an emphasis in structural engineering and a course of study that includes a minimum of 16 semester hours, or their equivalent (e.g., 24 quarter hours), of structural analysis, behavior or design courses without a master's degree.
- 2) The maximum credit for graduate study shall be 2 years~~1 year~~.

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- 3) Credit for structural engineering experience shall be given for a graduate of a university certified cooperative program that is a supervised industrial or field experience of at least one calendar year ~~that~~^{which} alternates with periods of full-time academic training. ~~Supervision~~^{Such supervision} shall be by a U.S. licensed engineer legally practicing structural engineering.
 - A) A maximum of one year of experience credit may be given for one year or more of actual work experience acquired through participation in a university cooperative program;
 - B) Applicants claiming credit for participation in the university cooperative program shall submit an official transcript from the university reflecting the university credit for completion of the program; and
 - C) All experience shall be structural engineering experience and must be verified, on forms provided by the ~~Division~~^{Department}, by the supervising engineer.
- 4) Credit for all required experience or any remaining experience as set forth in Section 1480.140 shall be given for actual experience in the practice of structural engineering under the employ or immediate supervision of ~~ana licensed~~ engineer legally practicing structural engineering. ~~The~~^{Such} experience shall require the application of technical knowledge and structural engineering principles.
- 5) Each applicant shall submit evidence of at least 2 years of engineering experience in a position of responsible charge while in the employ of or under the immediate personal supervision of a licensed engineer legally practicing structural engineering. In this category the applicant shall have directed the work, with responsibility for the successful accomplishment of the work, including demonstrated capability of making independent technical decisions to fulfill a structural engineering duty and being accountable for the performance of those duties.
- 6) Credit for a maximum of 3 years of the experience required for licensure shall be given for the full-time teaching of upper division junior/senior courses or graduate courses in structural engineering as a part of, or in

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conjunction with, an approved engineering curriculum as set forth in Section 1480.110. An academic year of full-time teaching (2 semesters, or 3 quarters) at a level of assistant professor, or higher, shall be considered equivalent to 6 months of the experience required for licensure. This teaching experience shall be fully documented, and certified by an affidavit from the department chairman, or dean, of the engineering curriculum involved. Applicants qualifying under this subsection are exempt from the requirement of subsection (a)(5) ~~of this Section~~.

- b) While an applicant may receive either experience credit, education credit, teaching credit, or a combination of these, such applicant shall not receive more than one+ year's total credit for any one+ year (i.e., overlapping experience, education or teaching shall be credited to only one+ category).

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.135 Application for Enrollment as a Structural Engineer Intern by Examination

- a) An applicant for enrollment as ~~a structural engineer intern~~ a structural engineer intern shall file an application on forms supplied by the ~~Division~~ Department by November 15 for the spring examination or by May 15 for the fall examination.

1) The application shall include:

A+) Either:

iA) Proof of aA degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110. Official college transcript showing all coursework completed and conferral of a baccalaureate degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110; or

iiB) Proof of aA degree in a related science as set forth in Section 1480.120. Official college transcript showing all coursework completed and conferral of a bachelor of science degree in a related science; and completed experience verification ~~forms~~ form(s), indicating the

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required 4 years of approved experience;

- B2) The required fee specified in Section 1480.195;
- C3) For an applicant claiming credit for participation in a cooperative program, as described in Section 1480.130(a)(3), certification of ~~such~~ participation, with a brief description of the program, from the university and verification of supervision;
- D4) ~~A complete work history indicating all employment since receipt of a baccalaureate degree;~~⁵) Proof of passage of the Test of English as a Foreign Language (TOEFL) ~~with a minimum score of 550 or 213 on the TOEFL computer-based test~~ and the Test of Spoken English (TSE) ~~with a minimum score of 50~~, for applicants who apply after January 1, 1997, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English. The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the Internet-based TOEFL iBT with a minimum score of 26 on the speaking module.;
- 2)6) An applicant shall have acquired the experience required by subsection (a)(1)(B) this Section after conferral of the degree and prior to applying to the Division.~~Department;~~
- 3)7) Applicants who received their education in a foreign country shall have the education evaluated at their expense. Applicants shall obtain the forms from ~~Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore, Maryland~~NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178-21202. Evaluations completed prior to October 30, 2006 from Engineering Credentials Evaluation International (ECEI) are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees. The Board will review all transcripts and the evaluation submitted to the Division.~~Department~~ to determine if the

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education meets the requirements set forth in this Section and [68 Ill. Adm. Code Section 1270.15](#).

- b) Upon receipt of the application and all supporting documentation in complete order, ~~all:1) Persons with degrees from an engineering program that has been reviewed and approved by the Board will be reviewed by the Board and notified of their eligibility to register for the Fundamentals of Engineering Examination. 2) The files of persons with degrees in basic engineering or related science~~ will be presented to the Board for evaluation of the required education and experience based on the criteria specified in Sections 1480.110 and 1480.130. Once the applications have been approved, those persons will be notified of their eligibility to register for the Fundamentals of Engineering Examination, the examination filing deadline and the required examination fee as provided for in Section 1480.195.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.140 Application for Licensure by Examination

- a) Applicant ~~Enrolled~~~~enrolled~~ as a Structural Engineer Intern or Engineer Intern
- 1) An applicant shall have acquired all experience required by Section 1480.130 prior to making application to the ~~Division~~~~Department~~.
 - 2) An applicant for licensure as a structural engineer who is enrolled as a ~~structural engineer intern~~~~Structural Engineer Intern~~ or ~~engineer intern~~~~Engineer Intern~~ shall file an application on forms supplied by the ~~Division~~~~Department~~ by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 9 of the Act, the following:
 - A) Experience verification forms completed by the supervisor, indicating the required 4 years of experience earned. For ~~engineer interns~~~~Engineer Interns~~ enrolled with a degree in a related science, experience verification forms shall be completed for the entire 8 years of required experience as set forth in Section 1480.130.
 - B) For persons who were certified or enrolled as an ~~engineer intern~~~~Engineer Intern~~ or ~~engineer~~~~Engineer~~-in-training in Illinois or

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another state or territory:

- i) A certification of ~~such~~ enrollment from the appropriate state board, including the date of the examination; and
 - ii) Official college transcripts showing coursework completed and degree received.
- C) The required fee specified in Section 1480.195.
- D) For an applicant claiming credit for participation in a cooperative program, as described in Section 1480.130(a)(3), certification of ~~such~~ participation with a brief description of the program, from the university and verification of supervision.
- ~~E) A complete work history indicating all employment since receipt of a baccalaureate degree and verification of supervision.~~
- b) Applicant ~~Not Enrolled~~~~not enrolled~~ as a Structural Engineer Intern or an Engineer Intern
- 1) An applicant shall have acquired all experience as required in Section 1480.130 prior to making application to the ~~Division~~~~Department~~.
 - 2) An applicant for registration as a structural engineer who is not enrolled or certified as a Structural Engineer Intern shall file an application on forms supplied by the ~~Division~~~~Department~~ by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 9 of the Act, the following:
 - A) Verification of experience indicating the approved experience as set forth in Section 1480.130 ~~of this Part~~;
 - B) Certification of education of one of the following:
 - i) A degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110. An official transcript of educational credit showing receipt

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of a baccalaureate degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110; an official transcript of educational credit; and completed experience certification forms indicating the required 4 years of approved experience, except as provided in subsection (c) of this Section; or

- ii) A degree in a related science as set forth in Section 1480.120. An official transcript of educational credit showing receipt of a bachelor of science degree in a related science; an official transcript of educational credit; and completed experience certification forms, indicating the required 8 years of approved experience;

- C) ~~A complete work history, on forms provided by the Department, indicating all employment since receipt of a baccalaureate degree; and~~D) The required fee specified in Section 1480.195.

- c) If an applicant has ever been licensed to practice engineering in another jurisdiction, certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, including the following:

- 1) The date of issuance of the applicant's license and the current status of ~~the~~such license;
- 2) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and
- 3) Whether the records of the licensing authority contain any record of disciplinary action taken or pending against the applicant.

- d) Applicants not enrolled as a structural engineer intern in Illinois who received their education in a foreign country shall have the education evaluated at their expense. Applicants shall obtain the forms from ~~Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore, Maryland~~NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st St., Suite 223, Miami, Florida 3317824202. Evaluations completed prior to October 30, 2006 from Engineering Credentials Evaluation International (ECEI)

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are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees. The Board will review all transcripts and the evaluation submitted to the ~~Division~~Department to determine if the education meets the requirements set forth in Sections 1480.110 and 1480.120.

- e) Applicants not enrolled as a structural engineer intern in Illinois shall submit proof~~Proof~~ of passage of the Test of English as a Foreign Language (TOEFL) ~~with a minimum score of 550 or 213 on the TOEFL computer-based test~~ and the Test of Spoken English (TSE) ~~with a minimum score of 50~~, for applicants who apply after January 1, 1997, who graduated from a structural engineering, architecture or related science program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the structural engineering, architecture or related science program from which the applicant graduated was taught in English. The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the Internet-based TOEFL iBT with a minimum score of 26 on the speaking module.
- f) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of the required education and experience as specified in ~~Sections~~Section 1480.110 and 1480.130. Once the application has been approved, those persons will be notified of their eligibility to register for the Fundamentals of Engineering, Structural I and Structural II examinations, the examination filing deadline and the required examination fee as provided for in Section 1480.195.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.150 Examination

- a) The examination for licensure as a structural engineer shall be divided into 3 Parts~~parts~~.
- 1) Fundamentals of Engineering. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques designed to evaluate the applicant's knowledge of the basic and engineering sciences and related subjects normally considered as the fundamentals of engineering.

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- 2) Structural I Examination. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques relating to designs in or to the practice of structural engineering as described in Section 5 of the Act.
 - 3) Structural II Examination. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques relating to designs in structural engineering, including seismic design. Such problems may include, but not be limited to, bridges, buildings, foundations, and seismic and lateral forces.
- b) The examination administered by the ~~Division~~Department shall be provided by the National Council of Examiners for Engineering and Surveying (NCEES). The specific examination content shall be as determined by periodic evaluations of the test specifications by NCEES.
- c) The scoring of the examinations and determination of scores shall be as approved by NCEES.
- d) Separate scores shall be given for the Fundamentals of Engineering, Structural I and Structural II. All scores shall be graded as pass or fail. Once an applicant fails a Part of the examination, that Part shall not be waived.
- e) Candidates ~~who fail an examination~~ may not review their examination booklet or the associated answer sheets. Rescoring of the examination or any individual problem is not permitted; however, a retabulation of the numerical score will be permitted.
- f) Retake of Examination-
- 1) Applicants shall be required to retake only the Part on which a passing score was not achieved.
 - 2) If an applicant neglects, fails without an approved excuse (illness, military service, motor vehicle accident occurring on date of examination, etc.), or refuses to take the next available examination offered for licensure under this Act, the fee paid by the applicant shall be forfeited and the application denied. If an applicant fails to pass an examination for licensure under

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this Act within 3 years after filing the application, the application shall be denied. However, ~~thesueh~~ applicant may thereafter make a new application for examination, accompanied by the required fee (Section ~~1480.195-10 of the Act~~). New applications shall include proof of meeting the qualifications for examination in effect at the time of ~~thesueh~~ new application except as provided for in subsection (f).

- g) Successful scores of previously passed Parts of the examination shall be accepted for the purpose of licensure provided the applicant has met all other requirements for licensure as outlined in the Act. For ~~thesueh~~ purposes, the most recent score on a Part shall be the score of record. In no circumstances shall the ~~Division~~~~Department~~ accept a previous passing score on a Part for an applicant whose score of record is a failing score.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.160 Restoration

- a) A licensee seeking restoration of ~~ahis~~ license ~~thatwhich~~ has expired for less than 5 years shall have the license restored upon application to the ~~Division~~~~Department~~, proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, and payment of the required fee specified in Section 1480.195.
- b) A licensee seeking restoration of a license ~~thatwhich~~ has been placed on inactive status for less than 5 years shall have the license restored upon application to the ~~Division~~~~Department~~, proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, and payment of the current renewal fee specified in Section 1480.195.
- c) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the ~~Division~~~~Department~~ for review by the Board ~~and~~; proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, together with the fee required by Section 1480.195. The licensee shall also submit ~~either~~:
- 1) Sworn evidence of active practice in another jurisdiction for at least the last 2 years. ~~TheSueh~~ evidence shall include a statement from the

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- appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of ~~thesaid~~ active practice;
- 2) An affidavit attesting to military service, as provided in Section 14 of the Act;
 - 3) Proof of passage of ~~the NCEES Structural II examination~~ Part II of the examination provided in (see Section 1480.150) within the 5 years preceding restoration; or
 - 4) Other evidence of continued competence in structural engineering, ~~including shall include~~, but not limited to:
 - A) Employment in a responsible capacity by a licensed structural engineer ~~as determined by the Board~~;
 - B) Lawfully practicing structural engineering as an employee of a governmental agency;
 - C) Teaching structural engineering in a college or university; ~~or~~
 - D) Performing structural engineering research; or
 - E) Attendance at educational programs in structural engineering or a related field, including, but not limited to, attendance at graduate level engineering courses, professionally oriented continuing education classes or special seminars.
 - d) Any person seeking restoration of a license within 2 years after discharge from military service ~~pursuant to (see Section 14 of the Act)~~ will be required to pay only the current renewal fee.
 - e) A restoration applicant shall meet the requirement for seismic design set forth in Section 1480.175.
 - f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience required by subsection (c)(4) ~~above~~ is questioned by the ~~Division~~ Department because of discrepancies or conflicts in

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information, information needing further clarification, and/or missing information, the licensee seeking restoration of ~~ahis~~ license shall be requested to:

- 1) Provide ~~such~~ information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain ~~thesueh~~ relevance or sufficiency when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon recommendation of the Board, and approval by the Director of the Division of Professional Regulation (Director) with the authority delegated by the Secretary, an applicant shall have the license restored or shall be notified of the reason for the denial of ~~thesueh~~ application for restoration.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.170 Endorsement

- a) Any person who holds an unexpired certificate of registration or license to practice structural engineering, issued under the laws of another state or territory and who desires to become licensed by endorsement shall file an application, on forms provided by the ~~Division~~Department, together with:
 - 1) Proof of meeting requirements substantially equivalent to those in force in this State at the time of original or subsequent licensure by examination in the other jurisdiction (i.e., a separate written 16 hour structural engineering examination and the Fundamentals of Engineering examination), including certification of education, and verification of experience;
 - 2) A certification by the jurisdiction of original licensure and certification from the jurisdiction of predominant active practice, including the following:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) The basis of licensure and a description of all examinations by

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which the applicant was licensed in that jurisdiction and the date of passage of any such examinations; and

- C) Whether the records of the licensing authority contain any disciplinary action taken ~~or pending~~ against the applicant;
- 3) If the qualifications of the applicant at the time of original licensure did not meet the requirements for licensure in this State at that time, the applicant may submit additional certifications of other jurisdictions to indicate meeting the qualifications in effect in this State at the time of any later licensure;
- 4) ~~A complete work history, on forms provided by the Department, indicating all employment since receipt of the baccalaureate degree;~~5) The required fee set forth in Section 1480.195;
- ~~5)6)~~ Applicants who received their education in a foreign country and who were originally licensed after January 1, 1997 shall have the education evaluated at their expense. Applicants shall obtain the forms from ~~Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore, Maryland~~ [NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178-21202](#). ~~Evaluations completed prior to October 30, 2006 from Engineering Credentials Evaluation International (ECEI) are also accepted. The Board has only approved NCEES and ECEI as evaluators for engineering degrees.~~ The Board will review all transcripts and the evaluation submitted to the ~~Division~~ [Department](#) to determine if the education meets the requirements set forth in Section 1480.110 and 1480.120; and
- ~~6)7)~~ Proof of passage of the Test of English as a Foreign Language (TOEFL) ~~with a minimum score of 550 or 213 on the computer-based test~~ and the Test of Spoken English (TSE) ~~with a minimum score of 50~~, for applicants who were originally licensed in another jurisdiction after January 1, 1997, who graduated from a structural engineering, architecture or related science program outside the United States or its territories and whose first language is not English. In order to determine whose first language is English, the applicant shall submit verification from the school that the structural engineering, architecture or related science program from which

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the applicant graduated was taught in English. [The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the internet-based TOEFL iBT with a minimum score of 26 on the speaking module.](#)

- b) An endorsement applicant shall meet the requirements for seismic design set forth in Section 1480.175.
- c) The ~~Division~~Department may, in individual cases, upon the recommendation of the Board, waive a portion of the examination requirements after consideration of the quality of an applicant's engineering education and experience, including whether he [or she](#) has graduated from an approved engineering curriculum, has achieved special honors or awards, has had numerous articles published in professional journals, has participated in the writing of textbooks relating to structural engineering, and any other attribute ~~which~~ the Board accepts as evidence that ~~thesueh~~ applicant has outstanding and proven ability in the practice of structural engineering.
- d) In order to provide background in structural engineering experience, an applicant licensed as a structural engineer in another state or territory; and who has met all previously stated requirements may be requested to appear before the Board for an oral interview at which questions will be asked to determine the applicant's qualifications and knowledge of structural engineering ~~(see Section 1480.160(e))~~. Specifically, questions may explore the applicant's knowledge concerning the design of concrete, structural steel, timber, masonry and foundations and analysis procedures, design codes, materials and recommended practices for design and construction.
- e) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the ~~Division~~Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking a license will be requested to:
 - 1) Provide information as may be necessary;
 - 2) Appear for oral interviews before the Board; and/or
 - 3) [If Applicants who were](#) licensed prior to January 1, 1997, upon review of

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the educational requirements, ~~may be required to~~ have ~~his or her~~their education evaluated at ~~his or her~~their expense as set forth in subsection (a)~~(56)~~.

- f) The ~~Division~~Department shall examine each endorsement application to determine whether the qualifications of the applicant, at the time of original or subsequent licensure, were substantially equivalent to the requirements then in force in this State. After review of the application, the ~~Division~~Department shall either issue a license by endorsement to the applicant or notify ~~the such~~ applicant of the reasons for the denial of the application. An applicant not qualified for licensure by endorsement shall automatically be reviewed under the provisions of Section 1480.140.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.175 Seismic Design Requirement

All restoration or endorsement applicants applying for licensure pursuant to Sections 1480.160 and 1480.170 must submit satisfactory evidence of knowledge in seismic design at the time of application ~~or at the first renewal of the license~~.

- a) The seismic design requirement can be satisfied by passage of one of the following:
- 1) The NCEES Structural II examination beginning with the April 2004 administration;
 - 2) The NCEES Structural II PM examination administered by Illinois from April 1991 through October 2003;
 - 3) The NCEES Structural II PM examination administered by all other jurisdictions from April 1993 through October 2003;
 - 4) The Western States Structural Examination administered from Spring 1993 through Fall 2003;-
 - 5) Satisfactory completion of a Board approved course of instruction dealing with seismic design that is part of an approved engineering curriculum. The licensee shall submit the course title and catalog course description to

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the Board for approval prior to taking the course. Evidence of completion shall be a college transcript. Audited courses are not acceptable;

- 6) Satisfactory completion of a Board approved professional seminar dealing with seismic design and involving a minimum of 16 contact hours (1.6 continuing education units or one semester hour of university credit) of lectures. Evidence of completion shall be by means of a valid certificate of completion signed by the providers of the seminar or an official transcript from the university. Audited courses are not acceptable. A 15 contact hour course may be substituted, in which case, the applicant shall also submit a short essay to be reviewed by the Board on Illinois seismic conditions and requirements; or
 - 7) Evidence that the licensee has taught a Board approved professional seminar or course dealing with seismic design that is part of an approved engineering curriculum or has conducted significant research into the problems of seismic resistance of structures and published the results of the significant research.
- b) Evidence of passage of one of the examinations identified in subsections (a)(1) through (4) shall be submitted by the licensee and may be a copy of the licensee's pass notice.
 - c) The Board shall utilize, but not be limited to, the following standards when approving a course or seminar in subsection (a):
 - 1) Effects of earthquakes on buildings or bridges;
 - 2) Structural standards and specifications for buildings or bridges;
 - 3) Concepts in structural dynamics;
 - 4) Seismic loading, including seismicity;
 - 5) Seismic response analysis; and
 - 6) Seismic design concepts, including concrete, steel, other structural materials and foundations.

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(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.180 Inactive Status

- a) Any licensed structural engineer who notifies the ~~Division~~Department in writing on forms prescribed by the ~~Division~~Department may elect to place his ~~or her~~ license on inactive status and shall be excused from the payment of renewal fees until he ~~or she~~ notifies the ~~Division~~Department in writing of ~~ahis~~ desire to resume active status.
- b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1480.160 ~~of this Part~~.
- c) Any licensed structural engineer whose license is on inactive status shall not practice engineering in the State of Illinois. Practicing or offering to practice on a license ~~that~~which is on inactive status shall be considered unlicensed activity and shall be grounds for discipline ~~under~~pursuant to Section 20 of the Act.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.185 Continuing Education

The continuing education required as a condition for license renewal under ~~the~~this Act is set forth in this Section. All structural engineers shall meet these requirements.

- a) Continuing Education Requirements
 - 1) Beginning with the November 30, 2004 renewal and for every renewal thereafter, renewal applicants shall complete 30 hours of Continuing Education (CE) relevant to the practice of structural engineering during each prerenewal period. The prerenewal period is the 24 months preceding the expiration date of the license. Failure to comply with these requirements may result in non-renewal of the structural engineer's license or other disciplinary action, or both.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 3) Structural engineers licensed in Illinois but residing and practicing in

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another state must comply with the CE requirements set forth in this Section. Continuing education credit hours used to satisfy the CE requirements of another state and meeting the requirements of this Section may be submitted toward fulfillment of the CE requirements of the State of Illinois.

- 4) The minimum length of the technical portion of any single CE activity is one+ hour. After completion of the initial CE hour, credit may be given in one-half hour increments.
 - 5) Nontechnical portions of a program, such as receptions, dinners, etc., do not qualify for credit as CE.
- b) Activities for which CE credit may be earned are as follows:
- 1) Course work relevant to structural engineering completed at an accredited college or university. One semester credit hour of course work is equivalent to 15 hours of CE and one quarter credit hour of course work is equivalent to 10 hours of CE.
 - 2) A maximum of 10 CE credit hours per prerenewal period may be earned for the completion of a self-administered course. Each self-administered course shall include an examination that will be graded by the sponsor.
 - 3) Successful completion of continuing education courses. Credit for courses will be based on one CE credit hour for each hour of attendance.
 - 4) A maximum of 10 CE credit hours per prerenewal period may be earned for attending in-house courses. Credit for in-house courses will be based on one CE credit for each hour of attendance. For courses presented in-house by outside individuals, see subsection (b)(3).
 - 5) Attending workshops or professional or technical meetings, conventions or conferences. Attendance at qualifying programs, professional and/or technical society meetings will earn CE credits for the actual time of each program. Visiting exhibitor booths or similar activities shall not qualify for CE credit.
 - 6) Teaching or presenting in the activities described in subsections (b)(1)

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through (5). CE credit will be applied at the rate of 3 hours for every hour taught, and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program).

- 7) Authoring published papers, articles or books. The preparation of each published paper or book chapter dealing with structural engineering may be claimed as 10 hours of CE credit.
- 8) Two hours ~~per committee membership~~ of CE credit may be earned by active participation on a committee in a professional or technical society ~~per committee membership~~. A maximum of 10 CE credit hours ~~earned through participation on committees~~total will be accepted per prerenewal period.

c) All programs or courses shall:

- 1) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in practice of structural engineering;
- 2) Foster the enhancement of general or specialized practice and values of structural engineering;
- 3) Be developed and presented by persons with education and/or experience in the subject matter of the program; and
- 4) Specify the course objectives, course content and teaching methods to be used.

d) Acceptable providers for programs or course activities shall include, but not be limited to:

- 1) Technical or professional societies or organizations relating to structural engineering; ~~or~~
- 2) Colleges, universities or other accredited educational institutions; or-
- 3) Providers of services or products used by or specified by structural engineers.

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- e) It shall be the responsibility of a licensee to maintain a record of CE for 45 years after the renewal that includes:
- 1) All of the following:
 - ~~A)1)~~ The name and address of the sponsor or presenter;
 - ~~B)2)~~ A brief statement of the subject matter, printed program schedules, registration receipts or other proof of participation;
 - ~~C)3)~~ The number of hours attended in each program; and
 - ~~D)4)~~ The date and place of the program; or
 - ~~2)5)~~ The certificate~~Certificate~~ of attendance, transcript or records of CE credits maintained by an acceptable provider of continuing education or a records administrator, or log of activities that include activities for CE credit not given by a CE provider.
- f) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsection (a).
 - 2) The ~~Division~~Department may require additional documentation in order to demonstrate compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. ~~The Such~~ additional documentation will be required in the context of a ~~Division~~Department audit.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- g) The ~~Division~~Department may conduct random audits to verify compliance with continuing education requirements.

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- h) ~~Restoration of Nonrenewed License. Upon evidence of compliance with CE requirements, the Department may restore the license upon payment of the required fee.~~ i) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the ~~Division~~Department a renewal application, the required renewal fee, a statement setting forth the facts concerning ~~the~~~~such~~ non-compliance, ~~and~~ a request for waiver of the CE requirements on the basis of these facts, ~~and~~ proof of CE that was completed during the prerenewal period. The applicant may request an interview with the Board at the time of the waiver request. If the ~~Division~~Department, upon the written recommendation of the Board, finds from the applicant's affidavit or any other evidence submitted that extreme hardship has been shown to substantiate granting of a waiver, the ~~Division~~Department shall waive enforcement of ~~the CE~~~~such~~ requirements for the renewal period for which the applicant has applied.
 - 2) If an interview with the Board is requested at the time the request for ~~such~~ waiver is filed with the ~~Division~~Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of ~~the~~~~such~~ interview by certified mail, return receipt requested.
 - 3) Extreme hardship shall be determined by the Board on an individual basis and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating medical condition~~illness~~, documented by a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs, documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances (i.e., family illness and prolonged hospitalization).

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- 4) Any renewal applicant who, prior to the expiration date of his/her license, submits a request for a waiver, pursuant to the provisions of this ~~subsection (h)Section~~, shall be deemed to be in good standing and may practice until the ~~Division'sDepartment's~~ final decision on the waiver has been made.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.190 Renewals

- a) Every license issued to an individual under the Act shall expire on November 30 of each even-numbered year. The holder of a license may renew ~~the~~~~such~~ license during the month preceding the expiration date by completing the continuing education requirements in accordance with Section 1480.185 and paying the required fee set forth in Section 1480.195.
- b) It is the responsibility of each licensee to notify the ~~DivisionDepartment~~ of any change of address. Failure to receive a renewal form from the ~~DivisionDepartment~~ shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- c) Every license issued to a professional design firm under the Act shall expire on April 30 of each odd-numbered year. The holder of ~~the~~~~such~~ license may renew that license for a 2-year period during the month preceding the expiration date ~~thereof~~ by paying the required fee ~~and submitting a current listing of structural engineers licensed in Illinois that are employed by the firm.~~
- d) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline ~~underpursuant to~~ Section 20 of the Act.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.195 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees-

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- 1) The fee for application for a license as a structural engineer is \$100. ~~In~~ addition, applicants for an examination shall be required to pay the examination fee, either to the Department or to the designated testing service, ~~a fee covering the cost of determining an applicant's eligibility and providing the examination~~. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
 - 2) The application fee for a license as a structural engineer intern is \$50.
 - 3) The application fee for a certificate of registration as a professional design firm is \$75.
- b) ~~Renewal Fees-~~
- 1) The fee for the renewal of a structural engineer license shall be calculated at the rate of \$30 per year.
 - 2) The fee for renewal of a certificate of registration as a professional design firm is \$75 for the renewal period (see Section 1480.190(c)).
- c) ~~General Fees-~~
- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on ~~Division~~Department records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.
 - 4) The fee to have the tabulation of the score of an examination administered

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- by the ~~Division~~Department reviewed and verified is \$20 plus any fee charged by the testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
 - 6) The fee for a roster of persons licensed as structural engineers or structural engineer interns in this State shall be the actual cost of producing the roster.
- d) All of the fees collected pursuant to this Section shall be deposited in the Design Professionals Administration and Investigation Fund.
 - e) Additional Fees
 - 1) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50.
 - 2) If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fee for a returned check, an additional fee of \$100 shall be imposed.
 - 3) The fees imposed by this Section are in addition to any other discipline provided under the Act for unlicensed practice or practice on a nonrenewed license. The ~~Division~~Department shall notify the person that payment of fees shall be paid to the Department by certified check or money order within 30 calendar days after the notification.
 - 4) If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the ~~Division~~Department shall automatically terminate the license or certificate or deny the application, without hearing.
 - 5) If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the ~~Division~~Department for restoration or issuance of the license or certificate and pay all fees due to the ~~Division~~Department. The ~~Division~~Department may establish a fee for the processing of an

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application for restoration of a license or certificate to pay all expenses of processing this application.

- 6) The Director may waive the fees due under this Section in individual cases in which where the Director finds that the fees would be unreasonable or unnecessarily burdensome.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.200 Professional Design Firm

- a) Persons who desire to practice structural engineering in this State in the form of a corporation, professional service corporation, partnership, limited liability company, limited liability partnership, or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) shall, in accordance with Section 19 of the Act, file an application with the Division~~Department~~ on forms provided by the Division~~Department~~, together with the following:
 - 1) For Corporations or Professional Service Corporations- (Registration as a professional design firm shall meet the registration requirements of Section 12 of the Professional Service Corporation Act [805 ILCS 10/12].)
 - A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is a licensed design professional.
 - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required. The purpose clause of the Articles of Incorporation or the certificate of authority shall designate that the corporation is authorized to provide structural engineering services. Each corporation shall remain active and in good standing with the Secretary of State in order to maintain

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professional design firm registration.

- C) A signed and dated resolution of the board of directors of the corporation designating a regular full-time employee of the corporation who ~~has~~ has an active Illinois ~~licensed~~ structural engineer license as the managing agent in charge of the structural engineering activities in Illinois. The Illinois license number of the structural engineer designated as the managing agent shall also be included in the resolution.
- D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the corporation, if applicable.
- E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.

2) For Partnerships-

- A) General
 - i) A copy of the signed and dated partnership agreement authorizing the partnership to provide structural engineering services. The agreement shall contain the name of the partnership, its business address and the names of all general partners. The name of the state in which each partner is licensed as a design professional and the license number shall be listed on the application.
 - ii) A signed and dated resolution adopted by the general partners designating a regular full-time employee of the partnership who ~~has~~ has an active Illinois ~~licensed~~ structural engineer license as the managing agent in charge of the structural engineering activities in this State. The license number of the managing agent shall be included in the resolution.
 - iii) A copy of the partnership documentation bearing the stamp of the county clerk where the partnership has been filed.

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- iv) A letter or certificate from the county clerk where an assumed name has been filed, if applicable.
- B) Limited ~~Partnership~~partnership
- i) A signed and dated copy of the partnership agreement indicating that it has been filed with the Secretary of State authorizing the partnership to provide structural engineering services. The partnership agreement shall contain the name of the partnership, its business address and the name of each partner. The name of the state in which each partner is licensed and the license number shall be listed on the application.
 - ii) A signed and dated resolution adopted by the partners designating a full-time employee of the partnership who ~~has~~has an ~~active~~active Illinois ~~licensed~~licensed structural engineer ~~license~~license in this State. The Illinois license number of the structural engineer designated as the managing agent shall also be included in the resolution.
 - iii) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
 - iv) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the partnership, if applicable.
- 3) For Limited Liability Companies or Limited Liability Partnerships-
- A) An application containing the name of the limited liability company or partnership, the business address and the members/partners of the company/partnership, the name of the state and the license number of each design professional who is a member or partner.
 - B) A copy of the resolution of the members' or partners' operating

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agreement or partnership agreement filed with the Secretary of State stating the company or partnership is authorized to offer engineering services.

- C) A signed and dated resolution of the members or partners designating a regular full-time employee of the company who ~~hasis~~ an active Illinois ~~licensed~~ structural engineer license as the managing agent in charge of the structural engineering activities in this State. The license number of the managing agent shall also be included in the resolution.
 - D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the limited liability company or partnership, if applicable.
 - E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
- 4) For Sole Proprietorships with an Assumed Name-
- A) An application containing the name of the sole proprietorship and its business address and the name and Illinois license number of the structural engineer who owns and operates the business.
 - B) A letter or certificate from the county clerk where an assumed name has been filed.
- 5) A list of all office locations in Illinois at which the corporation, professional service corporation, limited liability company or partnership, partnership or sole proprietorship provides structural engineering services.
- 6) The fee required in Section 1480.195.
- b) A professional design firm may designate more than one managing agent in charge of structural engineering activities. However, a licensee designated as the managing agent may not serve as a managing agent for more than one corporation, professional service corporation, limited liability company/partnership, or partnership doing business in Illinois, except when an

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entity is created as a joint venture of 2 or more professional design firms for a specific project. The managing agents designated by the professional design firms may be designated as the managing agents for the participating firms in the joint venture.

- c) Upon receipt of the ~~above~~ documents required by subsection (a) and review of the application, the ~~Division~~Department shall issue a registration authorizing the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to engage in the practice of structural engineering or notify the applicant of the reason for the denial of the application.
- d) Each corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship shall be responsible for notifying the ~~Division~~Department within 30 days after any changes in:
 - 1) The membership of the board of directors, members/partners of the limited liability company/partnership or the general partners;
 - 2) The licensure status of the general partners, members/partners of the limited liability company/partnership or any of the licensed structural engineer members of the board of directors; and
 - 3) An assumed name.
- e) Each corporation, limited liability company/partnership, professional service corporation or partnership shall be responsible for notifying the ~~Division~~Department in writing, by certified mail, within 10 business days after the termination or change in status of the managing agent. Thereafter, the corporation, professional service corporation, limited liability company/partnership or partnership, if it has so informed the ~~Division~~Department, has 30 days to notify the ~~Division~~Department of the name and license number of the structural engineer licensed in Illinois who is the newly designated managing agent.
- f) Any failure to notify the ~~Division~~Department as required in subsections (d) and (e) or any failure of the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to continue to comply with the requirements of Section 19 of the Act will subject the

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corporation, limited liability company or partnership to the loss of its registration to practice structural engineering in Illinois.

- g) Sole Proprietorships. Any sole proprietorship owned and operated by a structural engineer who has an active Illinois license is exempt from the registration requirements of a professional design firm. However, if the sole proprietorship operates under an assumed name, the sole proprietor shall file an application in accordance with subsection (a)(4) with the ~~Division~~[Department](#). A sole proprietorship shall notify the ~~Division~~[Department](#) of all assumed name changes. Any sole proprietorship not owned and operated by an Illinois licensed structural engineer shall be prohibited from offering structural engineering services to the public.
- h) In addition to the seal requirements in Section 14 of the Act, all documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the ~~Division~~[Department](#).

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.205 Acts Constituting the Practice of Structural Engineering Pursuant to Section 5 of the Act

- a) Design/Build. The design/build project delivery process is a method whereby an entity signs a single contract to provide a combination of professional design services and construction services. As used in this Section, design/build does not refer to contractual requirements for a subcontractor to retain a structural engineer to provide services related to performance of the contract.
- b) A design/build entity shall not offer to provide or provide structural engineering services, unless registered as a professional design firm or unless it complies with subsection (~~ca~~)(3). Offering to provide structural engineering services shall include, but ~~shall~~ not necessarily be limited to, any tender of engineering services either independently or in combination with construction services by any sign, card, advertisement or other device that might indicate to the public that the entity is entitled to provide engineering services.
- c) The design/build entity will not be required to register as a professional design firm pursuant to Section 19 of the Act only if the structural engineering services in the design/build project delivery process are provided by the entity in

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accordance with the following:

- 1) A structural engineer licensed or a professional design firm registered in Illinois independently contracts with the entity and participates substantially in all material aspects of the offering and providing of services relating to any bid process, contract negotiations, design, consultation, development, preparation and coordination of technical submissions, and verification of adherence to technical submissions and completion.
- 2) At the time of offering services, a written disclosure shall be given to the client by the entity identifying the licensed structural engineer who will be engaged by and is contractually responsible to the entity offering design/build project services.
- 3) The entity agrees that the licensed structural engineer will have direct supervision of the structural engineering design work. The entity also agrees that the engineering services will not be terminated on the project without replacement within 30 days by another licensed structural engineer.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.210 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of structural engineering, the following Standards of Professional Conduct shall be binding on every person holding a license as a structural engineer and on all corporations and partnerships authorized to practice structural engineering in this [Statestate](#).

- a) Professional Responsibility. Licensees shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.
 - 1) Licensees shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify

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their client or employer and such ~~authority~~ authority(s) as may be appropriate (which may include the ~~Division~~ Department or other law enforcement agencies).

- 2) Licensees shall approve and seal only those designs reviewed or prepared by them, and found to be safe for the public health, property and welfare.
 - 3) Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.
 - 4) Licensees shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.
 - 5) Licensees having knowledge of any alleged violation of any of this Part shall cooperate with the ~~Division~~ Department, furnishing such information or assistance as may be required to conduct an investigation resulting from a complaint.
- b) Competence. Licensees shall perform services only in areas of their competence.
- 1) Licensees shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.
 - 2) Licensees shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared or reviewed under their direct supervisory control.
 - 3) Licensees may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by licensees qualified in those phases.
- c) Professional Integrity. Licensees shall issue professional statements in an objective and truthful manner.

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- 1) Licensees shall be completely objective and truthful in all structural engineering reports, statements or testimony.
- 2) Licensees may express publicly a professional opinion on technical ~~subject~~ subject(s) only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.
- 3) A licensee, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on structural engineering matters without first prefacing ~~those~~ such comments by explicitly identifying on whose behalf the comments will be made. When the licensee is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client. The ~~Such~~ licensee shall reveal any personal interest in the matter.
- d) Conflict of Interest. Licensees shall act in professional matters for each employer or client as faithful agents of trustees; and shall avoid conflicts of interest.
 - 1) Licensees shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable, however, licensees shall disclose promptly to their employers or clients any business association, interest or circumstance ~~that~~ which may influence judgment or quality of services.
 - 2) Licensees shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee makes full disclosure and receives consent of all interested parties.
 - 3) Licensees shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee is a known employee or agent of the supplier.
 - 4) Licensees shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's employer or client in connection with work for which the licensee is responsible.

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- 5) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member. Conversely, licensees serving as members, advisors or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services solicited or provided by them or their organization.
- e) Employment Solicitation. Licensees shall avoid improper solicitation of professional employment.
 - 1) Licensees shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.
 - 2) Licensees shall not falsify or permit misrepresentation of their, or their associates' academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.215 Structural Engineer Complaint Committee

- a) The Structural Engineer Complaint Committee of the Structural Engineering Board, authorized by Sections 8 and 22 of the Act, shall be composed of 2 members of the Structural Engineering Board, a Supervisor over Design Investigations and a Chief of Prosecutions over Design Prosecutions. The **Deputy** Director of Enforcement shall designate the Supervisor and Chief **who sit ~~on assigned to~~** the Complaint Committee.
- b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties set forth in subsection (c) **below**. The Complaint Committee may meet concurrently with the Complaint Committees of the Architecture Licensing Board, the Land Surveyors Examining Board and the State Board of

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Professional Engineers to discuss interrelated professional matters. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

- c) The Complaint Committee shall have the following duties and functions:
- 1) To review investigative case files after an initial inquiry into the involved parties and their licensure status have been obtained. "Case file" means the allegation made against an involved party that resulted in a preliminary inquiry and other information being obtained in order to determine whether an investigation should be initiated or prosecution pursued. A "Formal Complaint" means the notice of allegations and charges or basis for licensure denial which begins the formal proceedings.
 - 2) To refer the case file to the Supervisor over the Design Investigators for further action. The Complaint Committee shall give the Supervisor an indication as to the prosecutorial merit and relative severity of the allegations to aid in the prioritization of investigative activity.
 - 3) To recommend that a case file be closed.
 - 4) To recommend that an Administrative Warning Letter be issued and the case file closed.
 - 5) To refer the case file to Prosecutions for review and action.
 - 6) To report the actions of the Complaint Committee at each Board meeting and to present enforcement statistics such as the type of alleged violation
- d) In determining what action to take or whether to proceed with investigation and prosecution of a case file, the Complaint Committee shall consider the following factors, but not be limited to: the effect on the public's health, safety and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient cooperation from complaining parties.
- e) At any time after referral to Prosecutions, the ~~Division~~Department may enter into negotiations to resolve issues informally by way of a Consent Order. Factors to be considered in deciding whether to enter into settlement negotiations shall include, but not be limited to: the effect on the public's health, safety and welfare

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caused by the respondent's alleged conduct; sufficient investigation of the case; prosecutorial merit; relative severity of the respondent's alleged conduct; and past practices of the ~~Division~~Department.

- f) No file shall be closed nor Formal Complaint dismissed except upon recommendation of the Complaint Committee and/or approval by the Structural Engineering Board. Those case files that previously have been before the Board and are the subject of a Consent Order or formal Order of the Director may be closed without further recommendation or approval of the Structural Engineering Board or the Complaint Committee.
- g) Disqualification of a Structural Engineering Board ~~Member~~member.
- 1) A Board member shall be recused from consideration of a case file or Formal Complaint when the Board member determines that a conflict of interest or prejudice would prevent that Board member from being fair and impartial.
 - 2) Participation in the initial stages of the handling of a case file, including participation on the Complaint Committee and in informal conferences, shall not bar a Board member from future participation or decision making relating to that case file.
- h) An informal conference is the procedure established by the ~~Division~~Department that may be used for compliance review, fact finding, discussion of the issues, resolving case files, licensing issues or conflicts prior to initiating any Formal Complaint or formal hearing. An informal conference may only be conducted upon agreement of both parties. Informal conferences shall be conducted by a ~~Division~~Department attorney and shall include a ~~member~~member(s) of the Board. Board members shall be scheduled for informal conferences on a rotating basis.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

Section 1480.220 Granting Variances (~~Renumbered~~)

- a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~where he ~~or she~~ finds that:
- 1) the provision from which the variance is granted is not statutorily

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mandated;

- 2) no party will be injured by the granting of the variance; and
- 3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

- b) The Director shall notify the Board of the granting of ~~such~~ variance, and the reasons ~~for granting the variance therefor~~, at the next meeting of the Board.

(Source: Amended at 34 Ill. Reg. 5669, effective March 30, 2010)

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- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
245.20	Amend
245.30	Amend
245.40	Amend
245.55	Amend
245.70	Amend
245.71	Amend
245.200	Amend
245.205	Amend
245.210	Amend
245.214	Amend
245.225	Amend
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) Effective Date of Rulemaking: April 5, 2010
- 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 Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 19, 2009; 33 Ill. Reg. 8072
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In Section 245.20, in the definition of "client", the strike-out line was removed from "a home nursing agency;".

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2. In Section 245.20, "Employee – an individual for whom an agency licensed under this Part pays withholding taxes." was inserted.
3. In Section 245.20, in the definition of "Home Health Agency Administrator", "an employee of the home health agency who is" was inserted before "any one of the following:".
4. In Section 245.30(e)(3), the sentence, "The agency supervisor shall designate a qualified staff member to act in his or her absence." was inserted at the end of the subsection.
5. In Section 245.30(e)(5), "One person may not" was changed to "No one person may".
6. At the end of Section 245.30(e), "6) If the licensed home health agency also is licensed as a home nursing agency, the agency supervisor may supervise the provision of skilled nursing services in the home nursing agency only if there are equally qualified individuals available in each licensed component of the organization to act in his or her absence." was inserted.
7. In Section 245.30(f)(1), "supervision" was changed to "direction".
8. In Section 245.30(g)(2), "administration" was removed before "has appointed".
9. In Section 245.71(c), "or arrange for" was inserted after "provide".
10. At the end of Section 245.71(c), "The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training. The home services agency shall give no worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first four hours of training. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her first assignment. The workers shall be similarly tested following the remaining four hours of training." was inserted.

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11. In Section 245.71(d), "placement" was inserted after "The" and before "agency"; "may accept" was inserted after "agency"; and "shall provide" was stricken in the first sentence.
12. In the same subsection (d), "that the worker has successfully completed a training program at or through another licensed home services agency" was inserted after "proof" in the first sentence and "of a competency evaluation conducted by the agency or proof that the worker has successfully completed a training program at another licensed home services agency" was stricken.
13. In the same subsection (d), "The home services placement agency shall give no worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall insure that the home services worker is competent to provide the services required in his or her assignment." was inserted.
14. In Section 245.214(d)(1), "A new" was removed at the beginning of the sentence, and the strike-out line was removed from "~~An~~" and "~~wishing to remain~~".
15. In the same subsection (d)(1), "has submitted" was inserted after "agency" and "shall submit" was stricken, and "and is active on the Department's Health Care Worker Registry" was inserted after "check".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: The Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245) regulates agencies that provide home health, home services, and home nursing services, including administration, staffing responsibilities, training, and the services they provide.

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These amendments to Part 245 were undertaken to implement Public Act 95-951, enacted by the General Assembly in 2008. PA 95-951 added home health aide services to the list of services that home nursing agencies may provide, in the definition for "home nursing agency" in Section 2.11 of the Act, and added a requirement that such services be provided only "under the direction of a registered professional nurse or advanced practice nurse." PA 95-951 also provided that a home nursing agency does not require licensure as a home health agency; previously, the language had said a home nursing agency does not "qualify" for licensure.

In Section 245.20 (Definitions), the definition for Home Nursing Agency is updated to incorporate the language of PA 95-951. Other Sections throughout the Part are amended to make the language consistent with the requirements of PA 95-951 and to correct errors.

In Section 245.30(e) (Organization and Administration), the Department eliminates a physician as one of the persons who may be a supervisor of a home health agency. The supervisor is a position distinct from that of Home Health Agency Administrator, which still may be filled by a physician.

Prior to these amendments, Part 245 required three administrative positions for a home health agency: administrator, agency supervisor, and supervising nurse. The Home Health Advisory Board, per input from the industry, recommended that the Department decrease the required administrative staff to the two positions of administrator and agency supervisor.

This decrease adds the responsibilities of the Supervising Nurse to the Agency Supervisor role. The primary staff for a home health agency is nurses, who must work under the supervision of a nurse. The administrator may be a nurse or a physician. Because the position of agency supervisor includes the supervising nurse duties, this person will have to be a nurse. Therefore, the Department deletes the physician option.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

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217/782-2043

e-mail: dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIESPART 245
HOME HEALTH, HOME SERVICES,
AND HOME NURSING AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section	Purpose
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services (Repealed)
245.55	Vaccinations
245.60	Annual Financial Statement
245.70	Home Health Aide Training
245.71	Qualifications and Requirements for Home Services Workers
245.72	Health Care Worker Background Check
245.75	Infection Control

SUBPART C: LICENSURE PROCEDURES

Section	Purpose
245.80	Licensure Required
245.90	License Application
245.95	License Application Fee
245.100	Provisional License
245.110	Inspections and Investigations
245.115	Complaints
245.120	Violations
245.130	Adverse Licensure Actions

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- 245.140 Penalties and Fines
- 245.150 Hearings

SUBPART D: CLIENT/PATIENT SERVICES

- 245.200 Services – Home Health
- 245.205 Services – Home Nursing Agencies
- 245.210 Services – Home Services Agencies
- 245.212 Services – Home Nursing Placement Agency
- 245.214 Services – Home Services Placement Agency
- 245.220 Client Service Contracts – Home Nursing and Home Services Agencies
- 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency
- 245.240 Quality Improvement Program
- 245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

AUTHORITY: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007; amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010.

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SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health, Home Services and Home Nursing Agency Licensing Act [210 ILCS 55].

Activities of Daily Living – include, but are not limited to, eating, dressing, bathing, toileting, transferring, or personal hygiene.

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Agency – a home health agency, home nursing agency, or home services agency, unless specifically stated otherwise. (Section 2.03a of the Act)

Agency Manager – the individual designated by the governing body or the entity legally responsible for the agency, who has overall responsibility for the organization and day-to-day operation of the home services or home nursing agency.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Branch Office – a location or site from which ~~ana home health~~ agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the ~~home health~~ agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch ~~to be~~ independently ~~licensed to meet the conditions of participation as a home health agency~~.

Bylaws or Equivalent – a set of rules adopted by an agency for governing the agency's operation.

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Client – an individual receiving services from a home nursing agency, a home services agency, or a placement agency. This term includes the service recipient's advocate or designee.

Client Record – a written record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between the client and the home services agency, a copy of the home services contract or agreement, and documentation of the services provided at each visit.

Clinical Note – a dated, written notation by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or emotional condition.

Clinical Record – an accurate account of services and care provided for each patient and maintained by a home health or home nursing agency in accordance with accepted professional standards.

Companionship – services that provide fellowship, care and protection for a client who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Services requested may include, but are not limited to, household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.

Department or IDPH – the Department of Public Health of the State of Illinois.
(Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his or her designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved, and final disposition at the time of discharge from service of a home health or home nursing agency.

Employee – an individual for whom an agency licensed under this Part pays withholding taxes.

Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

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Geographic Service Area – the area from which home health agency patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Health Care Professional – a physician licensed to practice medicine in all of its branches, a podiatrist, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes services under the Act, or a physician assistant who has been delegated the authority to perform services under the Act by his or her supervising physician.

Home Health Agency – a public agency or private organization that provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

Home Health Agency Administrator – an employee of the home health agency who is any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in Section 600.300 of the Certified Local Health Department Code.

Home Health Aide – a person who provides nursing, medical, or personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 of this Part.

Home Health Services – services provided to a person at his or her residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

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Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing and home health aide services to persons in their personal residences. A home nursing agency provides services that would require an individual licensed under the Nurse Practice Act to perform. Home health aide services are provided under the direction of a registered professional nurse or advanced practice nurse. A home nursing agency does not require~~qualify for~~ licensure as a home health agency under the Act. "Home nursing agency" does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)

Home Nursing Services – services that would be required to be performed by an individual licensed under the Nurse Practice Act on a shift schedule, one-time, full-time or part-time, and/or intermittent basis.

Home Services Agency – an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers primarily in their personal residences. Home services agency does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging or the Department of Human Services Office of Rehabilitation Services are not considered to be a home services agency under the Act. (Section 2.08 of the Act)

Home Services or In-Home Services or In-Home Support Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home services" does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act. (Section 2.09 of the Act) Home care services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal

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residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

Home Services Worker or In-Home Services Worker – an individual who provides home care services to a consumer in the consumer's personal residence. (Section 2.10 of the Act) The terms homemaker and companion are commonly used to refer to this type of worker.

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the ~~Nurse~~Nursing and Advanced Practice Nursing Act.

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act.

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act and meets either or both of the following requirements:

is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or

is eligible for the National Registration Examination of the American Occupational Therapy Association.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association.

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health or home nursing services to maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in

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collaboration with each discipline providing service to the patient, to the patient's family, or, for home health agencies, to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Personal Care Services – services that are furnished to a client in the client's personal residence to meet the client's physical, maintenance, and supportive needs, when those services are not considered skilled personal care, as described in this Section and Part, and do not require a physician's orders or the supervision of a nurse.

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. Such an emergency may not extend more than six months in any case.

Placement Agency – any person engaged for gain or profit, regardless of the agency tax status, in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. The term includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. The term does not include a person that provides or procures temporary

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employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12 of the Act) For the purposes of this Part, there are two types of placement agencies: Home ~~NursingHealth~~ Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214).

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with, in the case of a home health agency, the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient, and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987.

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the home health agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nurse Practice Act.

Skilled Nursing Services – those services that, due to their nature and scope, would require the performing individual to be licensed under the Nurse Practice Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing diagnosis; planning, implementation and nursing evaluation; counseling and/or patient education; health education; the administration of medications and

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treatments; and the coordination and/or management of a nursing or medical plan of care.

Skilled Personal Care – personal care that may be provided only by a home health aide, as defined in this Section, or an individual who is a certified or licensed health care professional under the laws of the State of Illinois.

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting.

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act.

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial Compliance or Substantially Meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization that serves patients in a geographic area different from that of the parent agency. The subunit, by virtue of the distance between it and the agency, is judged incapable of sharing administration, supervision and services.

Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

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(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

a) Governing Body – All Agencies

The agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the agency. Where the governing body of a large organization is functionally remote from the operation of the agency, the Department may approve the designation of an intermediate level "governing body". For the purposes of this Section, the governing body shall:

- 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and, for ~~the~~ home health agencies, to the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency.
- 2) Employ a qualified administrator for home health agencies.
- 3) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency.
- 4) Meet to review the operation of the agency.
- 5) Keep minutes of all meetings.
- 6) Provide and maintain an office facility adequately equipped for efficient work, and confidentiality of patient and/or client records, and that provides a safe working environment in compliance with local ordinances and fire regulations.

b) Administration – All Agencies

- 1) The agency shall have written administrative policies and procedures to ensure the provision of safe and adequate care of the patient or client.
- 2) The agency shall show evidence of liability insurance in accordance with

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Section 245.90(a).

- 3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocates in regard to services being provided to the patient/client.

c) Personnel Policies – All Agencies (Placement agencies ~~shall~~must meet the requirements of subsections (c)(1)(B), (2), (3) and (4).)

- 1) Personnel policies applicable and available to all full- and part-time employees shall include, but not be limited to, the following:
 - A) Wage scales, fringe benefits, hours of work and leave time;
 - B) Requirements for an initial health evaluation of each new employee who has contact with clients/patients, as specified by the governing body;
 - C) Orientation to the agency and appropriate continuing education;
 - D) Job descriptions for all positions utilized by the agency;
 - E) Annual performance evaluation for all employees;
 - F) Compliance with all applicable requirements of the Civil Rights Act of 1964;
 - G) Provision for confidentiality of personnel records;
 - H) Employee health policies that require employees to report health symptoms and exposure to any communicable or infectious disease, and that specify conditions under which employees are to be removed from patient or client contact and conditions under which employees may resume patient/client contact; and
 - I) Agency procedures related to identifying potential dangers to the health and safety of agency personnel providing services in the home and procedures for protecting agency personnel from identified dangers.

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- 2) Prior to employing or placing any individual in a position that requires a State professional license, the agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active. A copy of the verification of the individual's license shall be placed in the individual's personnel file.
 - 3) The agency shall check the status of employee or placement prospects who have direct patient/client care responsibilities with the Health Care Worker Registry prior to hiring.
 - 4) Personnel records for all employees/placement agency registry files for placement workers shall include the name and address of the employee or placement worker, Social Security number, date of birth, name and address of next of kin, evidence of qualifications (including any current licensure, registration, or certification that is required by State or federal law for the functions performed), and dates of employment or placement and separation from the agency and the reason for separation.
 - 5) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that is required by State or federal law for the functions performed, under the supervision of the agency.
 - 6) Home services and home nursing agencies that use some contractual services shall ensure that these services are provided by qualified personnel who hold any current licensure, registration or certification that is required by State or federal law for the functions performed under the supervision of the agency.
- d) Professional Advisory Group – Home Health Agencies
- 1) The professional advisory group shall be appointed by the governing body and shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be

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reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the governing body. These policies and procedures shall include, but are not limited to:

- A) Administration and supervision of the home health agency and the home health services it provides;
 - B) Criteria for the acceptance, non-acceptance, and discharge of patients;
 - C) Home health services;
 - D) Medical supervision and plans of treatment;
 - E) Patient care plans;
 - F) Clinical records;
 - G) Personnel data;
 - H) Evaluation; and
 - I) Coordination of services.
- 2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.
- e) Agency Supervision – Home Health Agencies
- 1) The governing body shall appoint a Home Health Administrator with the duties prescribed in Section ~~245.403~~245.404~~45.40 of this Part~~.
 - 2) The home health agency shall designate an agency supervisor~~a person~~ with one of the following sets of qualifications to supervise the provision of home health services:
 - ~~A) A physician;~~

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~~A)B)~~ A registered nurse who:

- i) Has completed a baccalaureate degree program approved by the National League for Nursing; and
- ii) Has at least one year of nursing experience;

~~B)C)~~ A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience that meets the following requirements:

- i) At least two years of the nursing experience must have been in: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.
- ii) At least two years of the three years nursing experience must have been obtained within five years prior to current employment with the home health agency.

- 3) The agency supervisor shall be a full-time registered nurse who is available at all times during operating hours of the agency and who participatesparticipate in all activities relevant to the provision of home health services. The agency supervisor shall designate a qualified staff member to act in his or her absence.
- 4) Any person employed as an agency supervisor prior to July 1, 1983, who does not meet the qualifications for agency supervisor that were in effect prior to October 1, 1983, may continue to serve in that capacity only at that agency.
- 5) No oneOne person may hold the positions of both home health agency administrator and agency supervisor, ~~if that person meets the requirements of both positions.~~
- 6) If the licensed home health agency also is licensed as a home nursing agency, the agency supervisor may supervise the provision of skilled nursing services in the home nursing agency only if there are equally

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qualified individuals available in each licensed component of the organization to act in his or her absence.

- f) Agency Supervisor Responsibilities – Home Health Agency Supervising Nurse – Home Health Agencies
- 1) The entire clinical program shall be under the direction of the agency supervisor. The agency shall organize the personnel and clinical activities of the home health agency in such a way that the organization will facilitate the provision of safe and adequate care to the patient.
 - 2)4) The skilled nursing service of a home health agency shall be under the direction of the agency supervisor~~supervision of a full-time registered nurse.~~
 - 3)2) The agency supervisors~~supervising nurse~~ shall be responsible for:
 - A) The overall supervision of all registered nurses, licensed practical nurses, ~~and~~ home health aides, therapists, social workers and other clinical personnel employed by the agency or with whom the agency contracts for services;
 - B) Assuring that the professional standards of community nursing practice are maintained by all staff~~nurses~~ providing patient care;
 - C) Maintaining and adhering to agency procedure and patient care policy manuals;
 - D) Participation in the establishment of service policies and procedures;
 - E) Participation in the selection and evaluation of nursing personnel and of other staff providing patient care;~~of nursing personnel and the evaluation of nursing personnel;~~
 - F) Coordination of patient care services;
 - G) Keeping and maintaining records of case assignments and case management;

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- H) Preparation and maintenance of ~~the schedule~~scheduling of cases to be brought to the clinical record review committee; and
 - I) The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.
- g) Agency Manager – Home Services and Home Nursing Agencies
- 1) A home services agency shall designate a person to supervise the provision of services or to oversee the placement of workers through the licensed home services agency.
 - 2) If the home nursing agency has appointed an agency manager who is not a registered nurse or an advanced practice nurse, the home nursing agency shall identify a registered nurse or advanced practice nurse who is responsible to supervise the provision of skilled nursing services as required by Section 2.11 of the Act. ~~A home nursing agency shall designate a person who is qualified under the laws of the State of Illinois to supervise the provision of skilled nursing care to clients or to oversee the placement of workers qualified to provide skilled nursing services to consumers through the licensed home nursing agency.~~

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.40 Staffing and Staff Responsibilities

- a) Home Health Administrator/Agency Manager. The administrator and/or agency manager shall have the following responsibilities:
 - 1) Ensure that the agency is in compliance with all applicable federal, State and local laws.
 - 2) Be familiar with the applicable rules of the Department and maintain them within the agency.
 - 3) Familiarize all employees as well as providers through contractual purchase of services with the law and the rules of the Department and

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make copies available for their use.

- 4) Ensure the completion, maintenance and submission of such reports and records as required by the Department.
 - 5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community.
 - 6) Maintain a current organizational chart to show lines of authority down to the patient or client level.
 - 7) Have the authority for the management of the business affairs and the overall operation of the agency.
 - 8) Maintain appropriate personnel records, administrative records and all policies and procedures of the agency.
 - 9) Employ qualified personnel in accordance with job descriptions.
 - 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff.
 - 11) Designate in writing the qualified staff member to act in the absence of the administrator.
- b) Home Health Aide
- 1) When home health aide services are offered, the services shall be under the supervision of a registered nurse in accordance with the plan of treatment. The home health aide is assigned to a particular patient by a registered nurse. Written instructions for patient care are prepared by a registered nurse or the appropriate therapist.
 - 2) Duties of the home health aide may include:
 - A) The performance of simple procedures as an extension of therapeutic services.
 - B) Personal care, as defined in this Part.

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- C) Ambulation and exercise of the patient.
 - D) Household services essential to health care at home.
 - E) Assistance with medications that are ordinarily self-administered.
 - F) Reporting changes in the patient's/client's condition and needs to the registered nurse or the appropriate therapist.
 - G) Completion of appropriate records.
- 3) For home health agencies, the~~The~~ registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether goals are being met.
- 4) For home nursing agencies, the registered nurse shall make a supervisory visit to the patient's/client's residence at least every 60 days when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether the goals of the treatment plan are being met.
- c) Home Services or In-Home Services Worker
- 1) As defined in this Part and under the Act, *Home Services or in-home services means assistance with activities of daily living , housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. Home Services or in home services does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act.* (Section 2.09 of the Act) Home services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

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- 2) Home ~~services or in-home services workers~~~~Services or In-Home Services Workers~~ will provide services in accordance with the policies and requirements of the placement or employing agency, as well as the service arrangements spelled out in the contract.
- 3) Duties of home services or in-home services workers may include the following:
 - A) Observation of client functioning and reporting changes to his/her supervisor or employer;
 - B) Assistance with household chores, including cooking and meal preparation, cleaning and laundry;
 - C) Assistance in completing activities such as shopping and appointments outside of the home;
 - D) Companionship;
 - E) Completion of appropriate records documenting service provision; and
 - F) Assistance with activities of daily living and personal care.
- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of acceptable tasks and also limitations when a more medical model of assistance would be needed to meet the higher needs of the client.
 - A) Skin Care. A home services worker may perform general skin care assistance. Skin care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker must be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a physician's prescription. Skilled skin care must be provided by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes,

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application of prescription medications, skilled observation and reporting.

- B) Ambulation. A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of their training. Once the prescribing individual or the health care provider responsible for the training of the client is comfortable with releasing the client to work on his or her own with the adaptive equipment, a home services worker may assist with ambulation.
- C) Bathing. A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs.
- D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a physician's prescription. A home services worker may not assist with application of an Ace bandage that can be purchased only with a physician's prescription (the application of which involves wrapping a part of the client's body) or with application of a sequential compression device that can be purchased only with a physician's prescription.
- E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to the encouragement of normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. Passive Range of Motion may not be performed by a home services worker.
- F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding

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when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function.

- G) Hair Care. As a part of the broader set of services provided to clients who are receiving home services, home services workers may assist clients with the maintenance and appearance of their hair. Hair care within these limitations may include shampooing with non-medicated shampoo or shampoo that does not require a physician's prescription, drying, combing and styling hair.
- H) Mouth Care. A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.
- I) Nail Care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing of nails. Assistance by a home services worker may not include nail trimming. Clients with a medical condition that might involve peripheral circulatory problems or loss of sensation shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.
- J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed, only when skilled skin care, as previously described, is not required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.

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- L) Toileting. A home services worker may assist a client to and from the bathroom; provide assistance with bed pans, urinals, and commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.
- i) A home services worker may empty or change external urine collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is considered skilled care and shall not be performed by a home services worker.
 - ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.
- M) Transfers. A home services worker may assist with transfers only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, wheel chairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. In general, a home services worker may not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:
- i) The home services worker must have been trained in the use of the mechanical or electrical transfer device by the licensed agency;
 - ii) The client or client representative must be able to direct the transfer step by step; and

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- iii) The agency must have conducted a competency evaluation of the worker using the type of device that is available in the home.
- N) Medication Reminding. A home services worker may assist a client with medication reminding only when medications have been pre-selected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription bottles, such as medication minders. Medication minder containers shall be clearly marked as to day and time of dosage. Medication reminding includes: inquiries as to whether medications were taken; verbal prompting to take medications; handing the appropriately marked medication minder container to the client; and opening the appropriately marked medication minder container for the client if the client is physically unable to open the container. These limitations apply to all prescription and all over-the-counter medications. The home services worker shall immediately report to the supervisor, or, in the case of a placement worker, to the client or the client's advocate or designee, any irregularities noted in the pre-selected medications, such as medications taken too often or not often enough, or not at the correct time as identified in the written instructions.
- O) A home services worker shall not provide respiratory care. Respiratory care is skilled and includes postural drainage; cupping; adjusting oxygen flow within established parameters; nasal, endotracheal; and tracheal suctioning; and turning off or changing tanks. However, home services workers may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning.
- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
- A) Provide skilled personal care services as defined in Section 245.20;
 - B) Become or act as a Power of Attorney;

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- C) Be involved in any financial transactions of the client outside of contracted services. In such cases, the home services worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;
 - D) Perform or provide medication setup for a client; and
 - E) Other actions specifically prohibited by agency policy or other State laws.
- 6) Supervision of a home services worker shall include the following (these provisions do not apply to placement agencies):
- A) An individual who is in a supervisory capacity shall be designated and available to the worker for responses to questions at all times.
 - B) On-site supervision shall take place at a minimum of every 90 days or more often if the plan of service requires it. The supervisory visits may be made when the home services worker is present so that the supervisor may observe, or when the home services worker is absent so that the supervisor may assess relationships and determine whether the service plan is being met.
 - C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.
- d) Licensed Practical Nurse
- 1) The licensed practical nurse may perform selected acts in accordance with the Nurse Practice Act, including the administration of treatments and medications in the care of the ill, injured, or infirm, the maintenance of health, and prevention of illness, under the direction of a registered nurse.
 - 2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse, and these reports shall be documented in the clinical notes.

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- 3) The licensed practical nurse shall prepare clinical notes for the clinical record.
- e) Medical Social Worker. When provided, medical social services shall be given by a social worker or by a social work assistant under the supervision of a social worker in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
 - 2) Assess the social and emotional factors in order to estimate the patient's capacity and potential to cope with the problems of daily living.
 - 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
 - 4) Assist the patient and family with personal and environmental difficulties that predispose toward illness or interfere with obtaining maximum benefits from medical care.
 - 5) Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.
 - 6) Observe, record and report social and emotional changes.
 - 7) Prepare clinical and progress notes for the clinical record.
 - 8) Supervision of the social work assistant shall include the following:
 - A) A licensed social worker must be accessible by telephone to the social work assistant at all times while the social work assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the social work

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assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.

- C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- f) Occupational Therapist and Occupational Therapy Assistant. When required, occupational therapy services shall be provided by an occupational therapist or by an occupational therapy assistant under the supervision of an occupational therapist in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.
 - 2) Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.
 - 3) Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.
 - 4) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
 - 5) Prepare clinical and progress notes for the clinical record.
 - 6) Supervision of the occupational therapy assistant shall include the following:
 - A) A licensed occupational therapist shall be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.

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- B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- g) Physical Therapist and Physical Therapist Assistant
- 1) When provided, physical therapy services shall be given by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist in accordance with the plan of treatment. These services shall include the following:
 - A) Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.
 - B) Plan and prepare a written treatment program based on the evaluation of available patient data.
 - C) Perform patient tests, measurements, and evaluations, such as range-of-motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.
 - D) Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.
 - E) Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and

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guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non-manual exercises, such as active regimens, isometric and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving application of physical agents, such as heat, light, cold, water and electricity. Administer traction and massage. Evaluate, fit and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.

- F) Observe, record, and report to the physician or podiatrist the patient's treatment, response and progress.
 - G) Instruct other health team personnel, including, when appropriate, home health aides and family members, in certain phases of physical therapy with which they may work with the patient.
 - H) Instruct patient and family in total physical therapy program.
 - I) Prepare clinical and progress notes for the clinical record.
- 2) Supervision of the physical therapist assistant shall include the following:
- A) A licensed physical therapist shall be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate

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revision of treatment plan, and an assessment of the utilization of outside resources.

- 3) The physical therapist assistant shall:
 - A) Be directed by and under the supervision of a licensed physical therapist.
 - B) Administer the physical therapy program as established by the physical therapist.
 - C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water and electrical modalities to patients with relatively stable conditions.
 - D) Instruct, motivate and assist patients in learning and improving functional activities such as perambulation, transfers, ambulation and activities of daily living.
 - E) Observe patient's progress and response to treatment, and report to the physical therapist.
 - F) Confer with members of the health care team for planning, modifying and coordinating treatment programs.
- h) Registered Nurse (RN). Skilled nursing services shall be provided by a registered nurse in accordance with the plan of treatment. These services shall include the following:
 - 1) Be responsible for the observation, assessment, nursing diagnosis, counsel, care and health teaching of the ill, injured or infirm, and the maintenance of health and prevention of illness of others.
 - 2) Maintain a clinical record for each patient receiving care.
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care, or at least every 60 days for a home health agency and every 90 days for a home nursing agency.

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- 4) In the case of an RN working as a part of a home health or home nursing agency, make home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home.
 - 5) Direct the activities of the licensed practical nurse.
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist.
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i) Speech-Language Pathologist. When required, speech therapy services shall be provided by a speech-language pathologist in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician in determining and recommending appropriate speech and hearing services.
 - 2) Evaluate the patient's speech and language abilities and establish a plan of treatment.
 - 3) Provide rehabilitation services for speech and language disorders.
 - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care.
 - 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
 - 6) Prepare clinical and progress notes for the clinical record.
- j) Audiologist. When required, audiology services shall be provided by an audiologist in accordance with the plan of treatment. These services shall include the following:
- 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities.

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- 2) Assess the patient's need for amplification.
 - 3) Provide rehabilitative services for hearing disorders.
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- k) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, a written agreement between the agency and each educational institution shall specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:
- 1) The agency retains the responsibility for client care;
 - 2) The educational institution retains the responsibility for student education;
 - 3) Student and faculty performance expectations;
 - 4) Faculty supervision of undergraduate students in the clinic and the field;
 - 5) Ratio of faculty to students;
 - 6) Confidentiality regarding patient information;
 - 7) Required insurance coverage; and
 - 8) Provisions for the agency and faculty to jointly evaluate the students' performance and the training program.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.55 Vaccinations

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a) Influenza

- 1) *A home health agency and home nursing agency shall annually administer or arrange for administration of a vaccination against influenza to each client/patient, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention titled Morbidity and Mortality Weekly Report, General Recommendations on Immunization (see Section 245.25), unless the vaccination is medically contraindicated or the client/patient has refused the vaccine. (Section 6.5 of the Act)*
- 2) The following activities by home health or home nursing agencies shall be considered to be "arranging for" a home health client/patient to receive an influenza vaccination:
 - A) Referring a client/patient to the physician who is supervising the client's/patient's home care, or to his/her primary care physician; or
 - B) Referring a client/patient to the hospital affiliated with the home health agency; or
 - C) Referring a client/patient to the local health department or other community location (e.g., local pharmacy, influenza vaccine clinic, hospital) where influenza vaccinations are available; or
 - D) Arranging for the local health department or other private or community health organization to provide the vaccination in the client's/patient's home.
- 3) When a referral or arrangement is made, home health or home nursing agency staff shall assist the client/patient in developing a plan for implementing the referral or arrangement and shall assess implementation of the plan and document the outcome.
- 4) *Influenza vaccination for all clients/patients age 65 or over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Home health or home nursing clients/patients whose services start after November 30, during the flu season, and until February 1, shall, as medically*

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appropriate, receive an influenza vaccination prior to or upon service initiation or as soon as practicable if vaccine supplies are not available at the time of the service initiation, unless the vaccine is medically contraindicated or the client/patient has refused the vaccine. (Section 6.5(a) of the Act)

- 5) For all clients/patients who are provided services between November 1 and February 28, the *home health or home nursing agency shall document in the client's/patient's medical record that an annual vaccination against influenza was administered, arranged, refused, or medically contraindicated* or that the client/patient is not a member of a vaccination priority population. (Section 6.5(a) of the Act)
 - 6) The following shall be considered to be documentation approaches that meet the requirements of Section 6.5 of the Act:
 - A) Individual client/patient record entries identifying the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.
 - B) Standardized check-off form recording client/patient specific information, including the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.
- b) Pneumococcal pneumonia

- 1) *A home health or home nursing agency shall administer or arrange for administration of a pneumococcal vaccination, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention titled Morbidity and Mortality Weekly Report, General Recommendations on Immunization (see Section 245.25), to each client/patient who is age 65 or over and who has not received this immunization prior to or upon service initiation, unless the client/patient refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 6.5(b) of the Act)*

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- 2) The following activities by home health or home nursing agencies shall be considered to be "arranging for" a home health client/patient to receive a pneumonia vaccination:
 - A) Referring a client/patient to the physician who is supervising his/her home care, or to his/her primary care physician; or
 - B) Referring a client/patient to the hospital affiliated with the home health agency; or
 - C) Referring a client/patient to the local health department or other community location (e.g., local pharmacy, clinic, hospital) where pneumonia vaccinations are available; or
 - D) Arranging for the local health department or other private or community health organization to provide the vaccination in the client's/patient's home.
- 3) When a referral or arrangement is made, home health or home nursing agency staff shall assist the client/patient in developing a plan for implementing the referral or arrangement and shall assess implementation of the plan and document the outcome.
- 4) *A home health or home nursing agency shall document in each client's/patient's medical record that a vaccination against pneumococcal pneumonia was offered and was administered, arranged, refused, or medically contraindicated or that the client/patient is not a member of a vaccination priority population. (Section 6.5(b) of the Act)*
- 5) The following shall be considered to be documentation approaches that meet the requirements of Section 6.5 of the Act:
 - A) Individual client/patient record entries identifying the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.
 - B) Standardized check-off form recording client/patient specific information, including the assessment for the need of vaccination;

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date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.70 Home Health Aide Training

- a) Each home health agency and home nursing agency shall ensure that all persons employed as home health aides or under any other title, whose duties are to assist with the personal, nursing or medical care and emotional comfort of the patients, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render such care, comply with one of the following conditions:
- 1) Is approved on the Department's Health Care Worker Registry. "Approved" means that the home health aide has met the training or equivalency requirements of this Section and does not have a disqualifying background check without a waiver (see Section 245.72);
 - 2) Meets training requirements by completion of a training program approved under the Long-Term Care Assistants and Aides Training Programs Code (see 77 Ill. Adm. Code 395); or
 - 3) Meets equivalencies established in subsection (b) of this Section.
- b) Equivalency may be established by any one of the following:
- 1) Documentation of current registration from another state.
 - 2) Documentation of successful completion of a nursing arts course, which included at least 40 hours of supervised clinical experience, in an accredited nurse training program as evidenced by diploma, certificate or other written verification from the school, and successful completion of the written portion of the Department-established nursing assistant competency test.
 - 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395), as evidenced by a diploma, certification DD-214, or other written verification, and successful

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completion of the written portion of the Department-established nursing assistant competency evaluation.

- 4) Documentation of completion of a nursing program in a foreign country, including the following, and successful completion of the written portion of the Department-established competency test:

- A) A copy of the license, diploma, registration or other proof of completion of the program;
- B) A copy of the Social Security card; and
- C) Visa or proof of citizenship.

- c) Requests to establish equivalency shall be submitted to the Department with accompanying documentation.

- d) The home health or home nursing agency is responsible for assuring that the individuals who furnish home health aide services on its behalf are competent to carry out assigned tasks in the patient's place of residence. The competency evaluation conducted by a registered nurse in the home health or home nursing agency shall address each of the following subjects:

- 1) Communication skills;
- 2) Observation, reporting, and documentation of patient status and the care or service furnished;
- 3) Reading and recording temperature, pulse and respiration;
- 4) Basic infection control procedures;
- 5) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
- 6) Maintenance of a clean, safe and healthy environment;
- 7) Recognizing emergencies and knowledge of emergency procedures;

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- 8) The physical, emotional and developmental needs of and ways to work with the populations served by the home health agency, including the need for respect for the patient, his or her privacy, and his or her property;
- 9) Appropriate and safe techniques in personal hygiene and grooming that include:
 - A) Bed bath;
 - B) Sponge, tub or shower bath;
 - C) Shampoo – sink, tub or bed;
 - D) Nail and skin care;
 - E) Oral hygiene; and
 - F) Toileting and elimination;
- 10) Safe transfer techniques and ambulation;
- 11) Normal range of motion and positioning;
- 12) Adequate nutrition and fluid intake; and
- 13) Any other task that the agency may choose to have the home health aide perform.

- e) A home health or home nursing agency shall not employ an individual as a home health aide unless the Agency has inquired of the Department as to information in the Health Care Worker Registry concerning findings of abuse, neglect or misappropriation of property.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.71 Qualifications and Requirements for Home Services Workers

- a) Each agency shall ensure and maintain documentation in the employee file that all persons employed or providing services as an in-home services worker, and who

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are not otherwise licensed, certified or registered in accordance with Illinois law to render such care, comply with the following conditions:

- 1) Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act without a waiver;
 - 2) Has a copy of the Social Security card; and
 - 3) Has visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each placement agency shall require proof that the home service worker has completed~~provide~~ a minimum of eight hours of training ~~for each home services worker~~ prior to his or her first assignment. The training shall include all of the items noted in subsection (d) of this Section.
- c) Each home services agency shall provide or arrange for a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsections (d)(1)-(12) of this Section. The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training. The home services agency shall give no worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first four hours of training. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her first assignment. The workers shall be similarly tested following the remaining four hours of training.
- d) The placement agency may accept~~shall provide~~ proof that the worker has successfully completed a training program at or through another licensed home services agency~~of a competency evaluation conducted by the agency or proof that the worker has successfully completed a training program at another licensed home services agency~~ within the prior year (previous 365 days). The home services placement agency shall give no worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall insure that the home services worker is competent to provide the

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services required in his or her assignment. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:

- 1) The employee's job responsibilities and limitations;
- 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;
- 3) Observation, reporting and documentation of client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
- 4) Performance of personal care tasks for clients, including: bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positioning; toileting; and medication reminding;
- 5) Performance of ability to assist in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;
- 6) Basic hygiene and basic infection control practices;
- 7) Maintenance of a clean, safe and healthy environment;
- 8) Basic personal and environmental safety precautions;
- 9) Recognizing emergencies and knowledge of emergency procedures, including basic first aid and implementation of a client's emergency preparedness plan;
- 10) Confidentiality of client personal, financial and health information;
- 11) Behaviors that would constitute abuse or neglect and the legal prohibitions against such behaviors, as well as knowledge and understanding of abuse and neglect prevention and reporting requirements; and
- 12) Any other task that the agency may choose to have the worker perform.

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- e) All home services workers shall complete a minimum of eight hours of training during each year of employment based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial eight hours of training required in subsection (c) of this Section shall satisfy the annual training requirement for the home services worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:
- 1) Promoting client dignity, independence, self-determination, privacy, choice and rights;
 - 2) Disaster procedures;
 - 3) Hygiene and infection control; and
 - 4) Abuse and neglect prevention and reporting requirements.
- f) All training shall be documented with the date of the training; starting and ending times; instructors and their qualifications; short description of content; and staff member's signature.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

SUBPART D: CLIENT/PATIENT SERVICES

Section 245.200 Services – Home Health

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.

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- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
 - 1) Services to be provided;
 - 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) Statement of responsibility of liability and insurance coverage;
 - 7) Period of time in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provision for termination of services.
- d) Acceptance of Patients. Patient acceptance and discharge policies shall include, but not be limited to, the following:
 - 1) Persons shall be accepted for health services on a part-time or intermittent basis in accordance with a plan of treatment established by the patient's physician or podiatrist. This plan shall be promulgated in writing within 14 days after acceptance and signed by the physician within 30 days after the start of the care date.
 - 2) Prior to acceptance of a patient, the agency shall inform the person of the agency's charges for the various services that it offers.

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- 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of services.
 - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the agency in the patient's place of residence.
 - 5) When services are to be terminated by the home health agency, the patient is to be notified ~~threeseven~~ working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
 - 6) Services shall not be terminated until such time as the registered nurse, or the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and an assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:
- 1) Diagnoses;
 - 2) Functional limitations and rehabilitation potential;
 - 3) Expected outcomes for the patient;
 - 4) The patient's physician's or podiatrist's regimen of:
 - A) Medications;
 - B) Treatments;

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- C) Activity;
 - D) Diet;
 - E) Specific procedures deemed essential for the health and safety of the patient;
 - F) Mental status;
 - G) Frequency of visits;
 - H) Equipment required;
 - I) Instructions for timely discharge or referral; and
 - J) Assessed need for influenza and pneumococcal vaccination;
- 5) The patient's physician's or podiatrist's signature and date.
- f) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.
- 1) The home health services team shall review the plan every 62 days, or more often if the patient's condition warrants.
 - 2) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days, or more often as indicated.
- g) Patient Care Plan
- 1) Home health services from members of the agency staff, as well as those under contractual arrangements, shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made

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by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances in which the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.

- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:

- A) Patient problems;
- B) Patient's goals, family's goals, and service goals;
- C) Service approaches to modify or eliminate problems;
- D) The staff responsible for each element of service;
- E) Anticipated outcome of service approach with an estimated time frame for completion; and
- F) Potential for discharge from service.

h) Clinical Records

- 1) Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
- A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings.
 - B) A plan of treatment signed by the patient's physician or podiatrist.
 - C) A patient care plan developed by the home health services team in accordance with the patient's physician's or podiatrist's plan of treatment.

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- D) A noted medication list with dates reviewed and revised and date sent to the patient's physician or podiatrist.
- E) Initial and periodic patient assessments by the registered nurse that include documentation of the patient's functional status and eligibility for service.
- F) Assessments made by other members of the home health services team.
- G) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the patient's clinical record at least weekly.
- H) Reports on all patient home health care conferences.
- I) Reports of contacts with the patient's physician or podiatrist by patient and staff.
- J) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.
- K) Written summary reports sent to the patient's physician or podiatrist every 62 days, containing home health services provided, the patient's status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services.
- L) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- M) A discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician.

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- N) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
- 2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies shall be maintained on non-thermal paper and that the original records shall be maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.
- 3) Those agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 4) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records that explains the use of records, removal of records and release of information.
- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that shall include, but not be limited to, the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
- 2) Drugs and treatments are administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment of the patient.

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- 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 4) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's physician or podiatrist.
 - 5) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 days after the verbal order.
 - 6) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.
- j) Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
- k) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include, but are not limited to: number of patients receiving each service offered; number of patient visits; reasons for discharge; breakdown by diagnosis; sources

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of referral; number of patients not accepted, with reasons; and total staff days for each service offered.

- l) Clinical Record Review
 - 1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to, whether the:
 - A) Patient care plan was directly related to the stated diagnosis and plan of treatment;
 - B) Frequency of visits was consistent with the plan of treatment; and
 - C) Services could have been provided in a shorter span of time.
 - 2) Clinical records shall be reviewed continually for each 62-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.205 Services – Home Nursing Agencies

- a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
 - 1) in accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing professional; and
 - 2) under the supervision of agency staff, by a health care professional.

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- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements.
- c) Acceptance and Discharge of Patients
- ~~1~~) Patient acceptance and discharge policies shall include, but not be limited to, the following:
- ~~1A~~) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing professional within 45 days after acceptance.
- ~~2B~~) Prior to acceptance, the person shall be ~~promulgate~~ informed of the agency's charges for the various services that it offers.
- ~~3C~~) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients are accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.
- ~~4D~~) When services are to be terminated by the agency, the patient is to be notified seven working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
- ~~5E~~) Services shall not be terminated until such time as the registered nurse has provided a minimum of seven days notice to the patient's health care professional. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In such cases, the agency shall notify the client of the timing of the termination of services and the reason for the termination. Documentation of the risk to the worker shall be maintained in the client record.
- d) Plan of Treatment
- ~~1~~) Skilled nursing services shall be in accordance with a plan based on the client's diagnosis, an assessment of the client's immediate and long-range needs and resources, and client participation. The plan is to be established in consultation

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with the nursing personnel; the client's health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:

- | ~~1A)~~ Diagnoses;
 - | ~~2B)~~ Client limitations and prognosis;
 - | ~~3C)~~ Expected outcomes for the client;
 - | ~~4D)~~ The prescribing professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge; ~~and~~
 - | ~~5E)~~ The types and frequency of services to be provided; ~~and-~~
 - | ~~6)~~ Assessment of need for influenza and pneumococcal vaccination.
- e) Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing professional's signature shall be obtained within 45 days after any modification of the plan.
- 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.
 - 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.
- f) Clinical Records
- 1) Each client shall have a clinical record maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
 - A) Appropriate identifying information for the client, household members and caretakers;

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- B) A plan of treatment developed by the home nursing agency in accord with the health care professional's order;
- C) A list of medications the client is taking, updated as needed. The list shall specify the dose, method, route of administration, and frequency of administration of each medication. All potential contraindications, drug interactions, and adverse reactions shall be reported to the health care professional within 24 hours, or sooner as warranted, and documented in the clinical record;
- D) Initial and periodic client assessments by the registered nurse;
- E) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the client's clinical record at least weekly;
- F) Reports on all client conferences;
- G) Report of contracts with the client's health care professional by client and staff;
- H) Indication of supervision of services by the supervising nurse, a registered nurse, or other members of the home nursing supervisory/management team;
- I) Written and signed confirmation of the client's health care professional's interim verbal orders;
- J) A discharge summary giving a brief review of service, client status, reason for discharge, and plans for post-discharge needs of the client. A discharge summary may suffice as documentation to close the client record for one-time visits or short-term services. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician;

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- K) A copy of appropriate client transfer information, when requested, if the client is transferred to another health facility or health agency.
- 2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on non-thermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract shall provide that the professional maintain the original records for a period of five years.
- 3) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall have policies and procedures in place in regard to such entries and the appropriate authentication and dating of those records. Authentication may include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has received and approved the entry. The agency shall have safeguards in place to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system failure or breakdown.
- 4) Those agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 5) Each agency shall have a written policy and procedure for the protection of confidentiality of client records that explains the use of records, removal of records and release of information.
- g) **Drugs and Biologicals**
The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:

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- 1) All orders for medications to be given shall be dated and signed by the client's health care professional.
- 2) All orders for medications shall contain the name of the drug, dosage, frequency, method, and route of administration, and permission from the prescribing professional if the client, the client's family, or both are to be taught to give medications.
- 3) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's healthcare professional within 45 days.
- 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.210 Services – Home Services Agencies

- a) Agencies licensed as home services agencies shall provide non-medical services, which may be provided directly by agency staff or through a contractual purchase of services, that are intended to assist clients with activities of daily living. Services may, ~~which would~~ include, but are not ~~be~~-limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and when changes occur.
- b) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that includes, but is not limited to:

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- 1) Indication and assurance of compliance by the agency with the requirements of the licensing Act, including the Health Care Worker Background Check Act;
 - 2) Identification of parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
 - 3) Information on the parties responsible for supervising workers, as well as hiring, firing and discipline of in-home services workers;
 - 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
 - 5) Time period for contractual arrangement and conditions for termination of contract; and
 - 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.
- c) Acceptance of Clients. Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:
- 1) Persons shall be accepted for service on the basis of their desire or need for household or personal support and/or companionship services. A home services agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.
 - 2) No person shall be refused services based on age, race, color, sex, marital status or national origin.
 - 3) When services are terminated by the agency, the client is to be notified at least seven working days in advance of the date of termination, with a stated reason for the termination. This information shall be maintained in the client record. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In such cases, the agency may notify the client of termination of services and the reason for

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termination. Documentation of the risk to the provider shall be maintained in the client record.

- d) **Service Plan.** The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
- 1) The level, type and/or scope of services the client is receiving;
 - 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
 - 3) Information received from the client, in consultation with the client and his or her appropriate family members or representative, on circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.
- e) Physician signature is not required for the plan of service developed under this Section.
- f) The service plan shall be reviewed and revised as necessary, but not less than once annually.
- g) **Client Records.** A client record shall be maintained for each client receiving in-home services. The record shall contain:
- 1) Appropriate identifying information for the client, including the client's name, address and telephone numbers;
 - 2) The name, telephone numbers and address of the client's representative, if applicable;
 - 3) The name, telephone numbers and address of an individual or relative to be contacted in an emergency;
 - 4) The plan of services agreed to by the client and agency;

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- 5) A copy of the Client Home Care Services Agreement or Contract; and
- 6) Documentation of each of the services provided at each visit.
- h) Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided.
- i) Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

Section 245.214 Services – Home Services Placement Agency

- a) Agencies licensed as home services placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers.
- b) A placement agency, by definition, cannot be the employer of the worker.
- c) A placement agency ~~shall~~**must** identify itself as a placement agency in all advertisement and marketing materials.
- d) The placement agency shall require and document that:
 - 1) An individual wishing to remain eligible for placement by the agency ~~has submitted~~**shall submit** to a ~~health care worker~~**criminal** background check **and is active on the Department's Health Care Worker Registry;**
 - 2) Anyone wishing to remain eligible for placement by the agency shall ~~provide proof of~~**undergo** eight hours of training pursuant to Section 245.71(d) of this Part prior to his or her first placement; **and**
 - 3) ~~Anyone wishing to remain eligible for placement by the agency shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and~~

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- ~~3)4)~~ Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall provide proof of~~participate in~~ a minimum of eight hours of in-service training per year, ~~provided and arranged for by the placement agency.~~
- e) The placement agency shall notify the worker both verbally and in writing of the implications of his or her relationship to the client as his or her employer. The document must be printed in no less than 12 point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:
- 1) Employer of the in-home services worker;
 - 2) Liability for the in-home services worker;
 - 3) Payment of wages to the in-home services worker;
 - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home services worker;
 - 5) Payment of Social Security taxes for the in-home services worker;
 - 6) Day-to-day supervision of the in-home services worker;
 - 7) Assignment of duties to the in-home services worker;
 - 8) Responsibility for hiring, firing, and discipline of the in-home services worker;
 - 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer; and
 - 10) All placement fees and procedures for refunds of such fees and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

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Section 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency

A contract between a home nursing placement agency or home services placement agency and a client shall be in force, a copy of which is provided to the client and a copy of which is maintained in the client file at the agency. The document shall be printed in no less than 12 point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive services;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the placement agency manager and/or other individual representing the placement agency whom the consumer may contact in the event that the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract;
- f) The rate and fees to be paid by the client and a detailed description of services to be provided as a part of the rate;
- g) A description of the process through which the contract may be modified, amended or terminated;
- h) A description of the agency complaint resolution process;
- i) The billing and payment procedures and requirements;
- j) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- k) A statement on how the client can report abuse, neglect or financial exploitation;
- l) A notice, as developed and provided by the agency, indicating the responsible party for the following:

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- 1) Employer of the in-home/licensed worker;
- 2) Liability for the in-home/licensed worker;
- 3) Payment of wages to the in-home/licensed worker;
- 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
- 5) Payment of Social Security taxes for the in-home/licensed worker;
- 6) Day-to-day supervision of the in-home/licensed worker;
- 7) Assignment of duties to the in-home/licensed worker;
- 8) Responsibility for hiring, firing and discipline of the in-home/licensed worker; ~~and~~
- 9) Provision of equipment or materials for the in-home/licensed worker's use in providing services to the consumer; ~~and-~~
- 10) All placement fees, procedures for refunds of those fees, and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.

(Source: Amended at 34 Ill. Reg. 5711, effective April 5, 2010)

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- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: 310.APPENDIX A TABLE AC Peremptory Action: New
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) to add Section 310.Appendix A Table AC, which reflects the Memorandum of Agreement (MOA) between the Illinois Nurses Association (INA) and CMS signed March 4, 2010 correcting the RC-036 pay schedules on page 13 of the Agreement between the INA and the Departments of CMS and Healthcare and Family Services for RC-036 Public Service Administrator, Option 8L, October 30, 2009 – June 30, 2012. The Agreement assigns the Public Service Administrator title Option 8L (Department of Healthcare and Family Services' Office of Inspector General's Bureau of Administrative Legislation) to the INA RC-036 bargaining unit and pay schedules. The MOA contains the initial pay schedule effective March 1, 2009. The subsequent pay schedules include cost of living increases that are: 1.75% effective January 1, 2010; 2.0% effective July 1, 2010; and 2.0% effective January 1, 2011.
- 5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]
- 6) Effective Date: April 2, 2010
- 7) A Complete Description of the Subjects and Issues Involved: In the table of contents, the Section 310.Appendix A Table AC heading is added.

In Section 310.Appendix A Table AC, the heading, title table and rate tables effective March 1, 2009, January 1, 2010, July 1, 2010 and January 1, 2011 are added.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: April 2, 2010

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10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.

11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act?
Yes

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation:</u>
310.410	Amendment	33 Ill. Reg. 14874; November 6, 2009
310.495	Amendment	33 Ill. Reg. 14874; November 6, 2009
310.Appendix A Table X	Amendment	33 Ill. Reg. 14874; November 6, 2009
310.Appendix B	Repealed	33 Ill. Reg. 14874; November 6, 2009
310.Appendix D	Amendment	33 Ill. Reg. 14874; November 6, 2009
310.80	Amendment	34 Ill. Reg. 602; January 15, 2010
310.100	Amendment	34 Ill. Reg. 602; January 15, 2010
310.410	Amendment	34 Ill. Reg. 602; January 15, 2010
310.460	Amendment	34 Ill. Reg. 602; January 15, 2010
310.470	Amendment	34 Ill. Reg. 602; January 15, 2010
310.490	Amendment	34 Ill. Reg. 602; January 15, 2010
310.495	Amendment	34 Ill. Reg. 602; January 15, 2010
310.Appendix A Table S	Amendment	34 Ill. Reg. 602; January 15, 2010
310.47	Amendment	34 Ill. Reg. 2832; March 5, 2010
310.Appendix A Table D	Amendment	34 Ill. Reg. 2832; March 5, 2010
310.Appendix A Table E	Amendment	34 Ill. Reg. 2832; March 5, 2010
310.Appendix A Table F	Amendment	34 Ill. Reg. 2832; March 5, 2010
310.Appendix A Table Q	Amendment	34 Ill. Reg. 2832; March 5, 2010
310.Appendix A Table X	Amendment	34 Ill. Reg. 2832; March 5, 2010

13) Statement of Statewide Policy Objectives: This amendment to the Pay Plan affects only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.

14) Information and questions regarding this preemptory amendment shall be directed to:

Mr. Jason Doggett, Manager Compensation Section
Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

504 William G. Stratton Building
Springfield IL 62706

217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hiring Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

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310.270	Legislated Rate
310.280	Designated Rate
310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay

310.TABLE A RC-104 (Conservation Police Supervisors, Laborers' – ISEA Local #2002)

310.TABLE B VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' –

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	ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Natural Resource, Historic Preservation and Agriculture Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
310.APPENDIX C	Medical Administrator Rates (Repealed)
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919,

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effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective

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December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency

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amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg.

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10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September

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27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28,

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2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; peremptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; peremptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; peremptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; peremptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; peremptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; peremptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; peremptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; peremptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; peremptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; peremptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; peremptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; peremptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; peremptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; peremptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; peremptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; peremptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; peremptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; peremptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; peremptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; peremptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; peremptory amendment at 34 Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; peremptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; peremptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010.

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[5485](#) [5649](#) [5817](#) [5991](#) [6310](#) [6642](#) [6959](#) [7281](#) [7609](#) [8087](#) [8410](#)

(Source: Added by peremptory rulemaking at 34 Ill. Reg. 5776, effective April 2, 1010)

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/7.2(b)

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] requires the Board to adopt regulations that are "identical in substance" to U.S. Environmental Protection Agency (USEPA) hazardous waste rules adopted to implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2008)). These rules are contained in 35 Ill. Adm. Code 701 through 705, 720 through 728, 733, and 739.

Section 7.2(a) of the Act [415 ILCS 5/7.2(a)] requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) [415 ILCS 5/7.2(b)] allows the Board to extend the deadline for adoption by publication of a notice of reason for delay in the *Illinois Register*.

By an order dated October 15, 2009, the Board consolidated dockets R09-16 and R10-4, in order to expedite consideration of all of the amendments. By that order, the Board also set forth reasons for delay and extended the deadline for final action on the amendments from October 30, 2009 to April 15, 2010. A Notice of Public Information Pursuant to 415 ILCS 5/7.2(b) appeared in the *Illinois Register* on October 30, 2009, at 44 Ill. Reg. 14841.

By a subsequent order dated March 18, 2010, the Board again set forth reasons for delay and extended the deadline for final action until September 13, 2010. The March 18, 2010 Board order explained the reasons for delay as follows:

REASONS FOR DELAY AND EXTENSION OF DEADLINE

The statutory due date for this proceeding was based on the earliest federal amendments included in this rulemaking, the October 30, 2008 amendments to the Definition of Solid Waste Rule. Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)). The statutory due date for filing the completed amendments, therefore, is one year from that date, so the Board must have filed the amendments with the Office of the Secretary of State before October 30, 2009.

By an order dated October 15, 2009, the Board previously set forth reasons for delay and extended the deadline as required by 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)). That order extended the time for the Board to complete rulemaking activities on these federal amendments until April 15, 2010. A Notice of Public Information Pursuant to 415 ILCS 5/7.2(b) appeared in the October 30, 2009 issue of the *Illinois Register*, at 33 Ill. Reg. 14841. The October 15, 2009 order recited the reasons for delay in that order as follows:

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The Board has been developing a proposal for public comment in this matter, and more time than the Board estimated is necessary to complete that proposal. Due to the volume and complexity of the amendments involved in this consolidated update docket, the Board has not yet completed the proposal. The October 30, 2008 amendments to the Definition of Solid Waste Rule involved incorporation of a new administrative determination and four new self-implementing exclusions from the definition of solid waste into the Illinois regulations. This has required extensive examination of the existing rules, as well as the new provisions and the addition of a voluminous new body of financial assurance requirements to the regulations. Also, the December 19, 2008 amendments to the excluded fuels rule involved incorporation of what is essentially an extensive new provision to the regulations. Similarly, the December 1, 2008 adoption of alternative generator requirements for eligible academic entities adds a new subpart to the hazardous waste generator standards.

Further, delay will allow the Board to consolidate the R09-16 and R10-4 dockets, in order to more promptly deal with the USEPA amendments of June 25, 2009 that will be the subject of docket R10-4.

The Board finds that further delay until September 13, 2010 has been necessary in development of a proposal for public comment based on the federal amendments involved in this proceeding. The reasons for further delay are the similar to those recited in the October 15, 2009 order: the issues involved in the federal amendments are complex, especially those involved in the October 30, 2008 amendments to the federal Definition of Solid Waste Rule. The size and complexity of the opinion and order under development for proposal of amendments is extreme. The draft order will embrace about 400 pages of the Illinois hazardous waste regulations, and the accompanying draft opinion will include over 200 pages of substantive discussion of those amendments. Although very near completion, the opinion and order are not quite ready for Board adoption of a proposal for public comment.

To accomplish a September 13, 2010 deadline, the Board must adhere to the following schedule of intermediate occurrences:

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Due date:	September 13, 2010
Date of Board vote to propose amendments:	April 15, 2010
Submission for <i>Illinois Register</i> publication:	April 26, 2010
Probable <i>Illinois Register</i> publication date:	May 7, 2010
Probable End of 45-day public comment period:	June 21, 2010
Date of Board vote to adopt amendments:	August 5, 2010
End of 30-day hold period for USEPA review:	September 5, 2010
Probable filing and effective date:	September 13, 2010
Probable <i>Illinois Register</i> publication date:	September 25, 2010

This revised schedule includes an added period of up to four weeks to allow for submission and evaluation of voluminous and complex comments that may result from publication of the proposal for public comment.

The above schedule is a projection based on what the Board currently foresees occurring. If *Illinois Register* publication of Notices of Proposed Amendments occurs prior to May 7, 2010, the public comment period will begin and end sooner than the projected dates. Further, if no person requests an opportunity to file public comments later than 45 days after the date of *Illinois Register* publication, the Board would proceed to adopt amendments based on the proposal as soon as possible. Such an earlier conclusion of the comment period or prompt action by the Board could result in completion of the amendments earlier than the date projected. Based on a Board vote to propose amendments on April 15, 2010, the earliest possible time that the Board could possibly vote to adopt the amendments would be July 1, 2010, which could allow completion of these rulemaking activities on August 2, 2010.

It is worthy of note that USEPA presently contemplates revising or withdrawing major segments of the amendments that underlie this docket. On May 27, 2009 (at 74 Fed. Reg. 25200), USEPA published a notice of public hearing on the October 30, 2008 amendments to the Definition of Solid Waste Rule. USEPA stated that it was entertaining further amendment of the Rule, USEPA solicited public comments on a number of aspects of the rule, and USEPA conducted a public hearing on the Rule on June 30, 2009. On December 9, 2009 (at 74 Fed. Reg. 64643), USEPA proposed withdrawal of the December 19, 2008 Emissions-Comparable Fuels Rule.

For the foregoing reasons, the Board finds that delay was unavoidable and an extension of the deadline for completion of these amendments is necessary

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until September 15, 2010. The Board hereby extends the deadline for completion of this rulemaking under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)) until that date. The Board also directs staff to cause publication of a Notice of Public Information on Proposed Rules in the *Illinois Register*, based on this order, that sets forth reasons for delay and extends the due date for this proceeding.

Direct inquiries as follows, referencing consolidated docket R09-16/R10-4:

Michael J. McCambridge, Staff Attorney
Illinois Pollution Control Board
312-814-6924 or mccambm@ipcb.state.il.us

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

No second notices were received by the Joint Committee on Administrative Rules during the period of March 30, 2010 through April 5, 2010. 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. The Committee's next monthly meeting is scheduled for April 13, 2010 in Springfield.

EXECUTIVE ORDER

2010-02**EXECUTIVE ORDER CREATING GOVERNOR'S OFFICE OF NEW AMERICANS**

WHEREAS, 12% of Illinois' population are immigrants and 20% of the state's population is either an immigrant or children of immigrants; and

WHEREAS, immigrants contribute to the economic, social, and political vitality of the United States and Illinois; and

WHEREAS, immigration policy is set at the federal level, but the actual benefits and challenges of immigration are felt at the state and local levels; and

WHEREAS, a proactive policy for New Americans at the state level will maximize the benefits immigrants bring to the state and its municipalities, while helping immigrants overcome the challenges they face; and

WHEREAS, it is beneficial for new immigrants, the host communities, and the state, to work cohesively providing new Americans with the opportunities they need in order to become fully integrated; and

WHEREAS, the State of Illinois plays a vital role in building upon the strengths of immigrants, enabling their speedy transition to self-sufficiency; and

WHEREAS, the State of Illinois has historically been a national leader in creating innovative state initiatives that assist immigrants in integrating into life in the United States; and

THEREFORE, I, Pat Quinn, by virtue of the authority vested in me as Governor, do hereby order as follows:

1. The State of Illinois shall maintain and continue to develop a New Americans Immigrant Policy that builds upon the strengths of immigrants, their families, and their institutions, and expedites their journey towards self-sufficiency. This policy shall enable State government to more effectively assist immigrants in overcoming barriers to success, and to facilitate host communities' ability to capitalize on the assets of their immigrant populations.
2. The Governor's Office of New Americans shall identify strategic partnerships with State agencies in an effort to implement best practices, policies, and procedures and make recommendations for statewide policy and administrative changes.

EXECUTIVE ORDER

3. State agencies shall develop New Americans plans that incorporate effective training and resources, ensure culturally and linguistically competent and appropriate services, and include administrative practices that reach out to and reflect the needs of the immigrant and Limited English Proficient population. State agencies shall consider the New Americans Immigrant Policy Council's recommendations in creating the agencies' plans. Agency plans should be submitted to the Governor for approval.
4. Executive Order Number 10 (2005) is hereby revoked and rescinded effective as of this date of issuance.

EFFECTIVE DATE

This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by the Governor: March 31, 2010

Filed with the Secretary of State: March 31, 2010

2010-03**EXECUTIVE ORDER ON PROJECT LABOR AGREEMENTS**

WHEREAS, the State of Illinois has a compelling interest in awarding public works contracts so as to ensure the highest standards of quality and efficiency at the lowest responsible cost; and

WHEREAS, a project labor agreement, which is a form of pre-hire collective bargaining agreement covering all terms and conditions of employment on a specific project, can ensure the highest standards of quality and efficiency at the lowest responsible cost on appropriate public works projects; and

WHEREAS, the State of Illinois has a compelling interest that a highly skilled workforce be employed on public works projects to ensure lower costs over the lifetime of the completed project for building, repairs and maintenance; and

WHEREAS, project labor agreements provide the State of Illinois with a guarantee that public works projects will be completed with highly skilled workers; and

WHEREAS, project labor agreements provide for peaceful, orderly and mutually binding procedures for resolving labor issues without labor disruption, preventing significant lost-time on construction projects; and

EXECUTIVE ORDER

WHEREAS, project labor agreements allow public agencies to predict more accurately the actual cost of the public works project; and

WHEREAS, the use of project labor agreements can be of particular benefit to complex construction projects; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the supreme executive authority of the Governor as set forth in Article V, Section 8 of the Illinois Constitution, do hereby order as follows:

1. On a project-by-project basis, a State department, agency, authority, board or instrumentality, which is under the control of the Governor, shall include a project labor agreement on a public works project where said department, agency, authority, board or instrumentality has determined that such agreement advances the State's interests of cost, efficiency, quality, safety, timeliness, skilled labor force, labor stability or the State's policy to advance minority- and women-owned businesses and minority and female employment.
2. Where it has been determined that a project labor agreement is appropriate, and in furtherance of the President's Executive Order 13502, the State department, agency, authority, board or instrumentality responsible for awarding the project may include a project labor agreement on a public works project funded in whole or in part with Federal funds.
3. Where it has been determined that a project labor agreement is appropriate for a particular public works project, the State department, agency, authority, board or instrumentality responsible for awarding the project shall in good faith negotiate a project labor agreement with labor organizations engaged in the construction industry. In the event that the State department, agency, authority, board or instrumentality and the labor organizations engaged in the construction industry ("the parties") cannot agree to the terms of the project labor agreement, the Governor shall appoint a designee to assist the parties in reaching an agreement.
4. Pursuant to this Order, any project labor agreement:
 - a. shall set forth effective, immediate and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work;
 - b. shall contain guarantees against strikes, lockouts, or similar actions;
 - c. shall ensure a reliable source of skilled and experienced labor;

EXECUTIVE ORDER

- d. shall further public policy objectives as to improved employment opportunities for minorities and women in the construction industry to the extent permitted by state and federal law;
 - e. shall permit the selection of the lowest qualified responsible bidder, without regard to union or non-union status at other construction sites;
 - f. shall be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents; and
 - g. shall include such other terms as the parties deem appropriate.
5. Any decision to use a project labor agreement in connection with a public works project by a State department, agency, authority, board or instrumentality shall be supported by a written, publicly disclosed finding by such department, agency, authority, board or instrumentality, setting forth the justification for use of the project labor agreement.
 6. All State departments, agencies, authorities, boards and instrumentalities are hereby ordered to ensure that all public works projects are implemented in a manner consistent with the terms of this Order and are in full compliance with all statutes, regulations and Executive Orders.
 7. Nothing in this Executive Order shall be construed to contravene any state or federal law or to jeopardize the State's entitlement to federal funding. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order that can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.
 8. This Order supersedes Executive Order 2003-13.
 9. This Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by the Governor: March 31, 2010

Filed with the Secretary of State: March 31, 2010

2010-4**EXECUTIVE ORDER TO CONSOLIDATE AGENCIES BY THE TRANSFER OF CERTAIN REPRODUCTION SERVICES OF THE DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY, THE DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES, THE DEPARTMENT OF PUBLIC HEALTH AND THE**

EXECUTIVE ORDER

**DEPARTMENT ON AGING TO THE DEPARTMENT OF HUMAN SERVICES
FACILITY AT 5020 INDUSTRIAL DRIVE, BUILDING B, SPRINGFIELD, ILLINOIS**

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the consolidation or coordination of whole or any part of any other agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; and

WHEREAS, the Department of Commerce and Economic Opportunity ("DCEO"), the Department of Healthcare and Family Services ("HFS"), the Department of Public Health ("DPH"), the Department on Aging ("Aging") and the Department of Human Services ("DHS") are executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived from 20 ILCS 605, et seq., 20 ILCS 2205, et seq., 20 ILCS 2310, et seq., 20 ILCS 110, et seq. and 20 ILCS 1305, et seq. respectively; and

WHEREAS, DCEO, HFS, DPH, Aging and DHS presently maintain individual reproduction services independent of each other, although these services share common functions, duties and responsibilities, as well as utilize the same or similar equipment and materials; and

WHEREAS, the transfer and consolidation of the DCEO, HFS, DPH, Aging and DHS reproduction services offers the opportunity to eliminate redundancy, simplify the organizational structure of the Executive Branch, improve accessibility and accountability, provide more efficient use of specialized expertise and facilities, realize savings in administrative costs, promote more effective sharing of best practices and state of the art technology and realize other cost savings, among other things; and

WHEREAS, the aforementioned benefits of consolidation can be achieved by transferring the reproduction services from DCEO, HFS, DPH and Aging to a DHS facility in 5020 Industrial Drive, Building B, Springfield, Illinois, 62703; and

WHEREAS, as Governor of the State of Illinois, I am committed to effectively using all existing State resources in order to streamline State government operations; and

EXECUTIVE ORDER

WHEREAS, for purposes of this Executive Order, DCEO, HFS, DPH, Aging and DHS's reproduction services are sometimes referred to collectively as the "Services," DHS is sometimes referred to as the "Receiving Agency," and the DCEO, HFS, DPH and Aging are sometimes referred to as the "Transferring Agencies;" and

WHEREAS, prior to the final transfer, discussed in paragraph I.A., below, the specific functions, as well as the staff performing those functions, of the DCEO, HFS, DPH and Aging reproduction services shall be transferred to DHS by way of interagency agreements between DCEO, HFS, DPH and Aging and DHS (the "Agencies' Interagency Agreements") in accordance with the objectives of this Executive Order; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the supreme executive authority of the Governor as set forth in Article V, Section 8 and pursuant to the authority to reorganize agencies under the jurisdiction of the Governor as set forth in Article V, Section 11 of the Illinois Constitution, do hereby order as follows:

I. TRANSFER

- a. Effective July 1, 2010, or as soon thereafter as practicable, the powers, duties, rights and responsibilities related to the Services, including staff and positions, shall be transferred from DCEO, HFS, DPH and Aging to the DHS facility at 5020 Industrial Drive, Building B, Springfield, Illinois, 62703 in accordance with the Agencies' Interagency Agreements. The statutory powers, duties, rights and responsibilities of the Transferring Agencies associated with these Services derive from 20 ILCS 605, et seq., 20 ILCS 2205, et seq., 20 ILCS 2310, et seq. and 20 ILCS 110, et seq. These transfers shall be permanent, unless otherwise the subject of subsequent Executive Order or other law.
- b. Whenever any provision of an Executive Order or any Act or section thereof transferred by this Executive Order provides for membership of the Director and/or Secretary of the Transferring Agencies on any council, commission, board or other entity relating to the Services, the Secretary of the Receiving Agency or her designee(s) shall serve in that place. If more than one such person is required by law to serve on any council, commission, board or other entity, an equivalent number of representatives of the Receiving Agency shall so serve.

II. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities vested in the Services shall not be affected by this Executive Order, except that all management and staff support or other resources necessary to the operations of the Services shall be provided by the Receiving Agency.

EXECUTIVE ORDER

- a. The status and rights of employees in the Transferring Agencies engaged in the performance of the functions of the Services shall not be affected by the transfer. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. Personnel under the Transferring Agencies affected by this Executive Order shall continue their service within the Receiving Agency.
- b. All books, records, papers, documents, property, contracts, and pending business pertaining to the powers, duties, rights and responsibilities related to the Services and transferred by this Executive Order from the Transferring Agencies to the Receiving Agency, shall be delivered to the Receiving Agency; provided, however, that the delivery of such information shall not violate any applicable confidentiality constraints.
- c. All unexpended appropriations and balances and other funds available for use in connection with any of the Services shall be transferred for use by the Receiving Agency for the Services pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriation was originally made and in accordance with applicable state and federal law.

III. SAVINGS CLAUSE

- a. The powers, duties, rights and responsibilities related to the Services and transferred from the Transferring Agencies by this Executive Order shall be vested in and shall be exercised by the Receiving Agency. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Transferring Agencies or their divisions, officers or employees.
- b. Every person or entity shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the Transferring Agencies or their divisions, officers or employees.
- c. Every officer of the Receiving Agency shall, for every offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.

EXECUTIVE ORDER

- d. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Transferring Agencies in connection with any of the functions of the Services transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Receiving Agency.
- e. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Services before this Executive Order takes effect; such actions or proceedings may be defended, prosecuted and continued by the Receiving Agency.
- f. Any rules of the Transferring Agencies that relate to the Services which are in full force on the effective date of this Executive Order and have been duly adopted by the Transferring Agencies shall become the rules of the Receiving Agency for the Services. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rulemakings filed with the Secretary of State by the Transferring Agencies that relate to the Services and are pending in the rulemaking process on the effective date of this Executive Order and pertain to the functions transferred, shall be deemed to have been filed by the Receiving Agency. As soon as practicable hereafter, the Receiving Agency shall revise and clarify the rules transferred to them under this Executive Order to reflect the reorganization of rights, power and duties effected by this Executive Order, using the procedures for recodification of rules available under the Illinois Administrative Procedure Act, except that existing title, part, and section numbering for the affected rules may be retained. The Receiving Agency may propose and adopt under the Illinois Administrative Procedure Act such other rules of the reorganized agencies that will now be administered by the Receiving Agency.

IV. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor: April 1, 2010

Filed with the Secretary of State: April 1, 2010

EXECUTIVE ORDER

2010-05

**EXECUTIVE ORDER COMMISSIONING A PLAN FOR INTEGRATING THE
DEPARTMENT OF JUVENILE JUSTICE INTO THE DEPARTMENT OF CHILDREN
AND FAMILY SERVICES**

WHEREAS, supervising delinquent youth requires specialized training for staff, unique approaches to facilities management, and programming that provides treatment and rehabilitative services; and

WHEREAS, the Department of Juvenile Justice was created as a stand-alone agency, after having been a division of the Department of Corrections, as a step towards managing the delinquent youth population of the State of Illinois with the intention of creating positive outcomes for young people and their families; and

WHEREAS, the mission of the Department of Children and Family Services is to provide social services to children and their families, to operate children's institutions, and to provide certain other rehabilitative and residential services; and

WHEREAS, integrating the Department of Juvenile Justice into the Department of Children and Family Services would best advance a culture change from a punitive approach toward a rehabilitative, treatment-focused model of care that engages families, promotes public safety, and holds youth accountable for their actions while providing better services for young people in facilities and after release; and

WHEREAS, the Illinois Constitution authorizes reorganizing executive branch agencies pursuant to either a multilateral process or a unilateral process: legislation passed by the General Assembly or an Agency Reorganization Executive Order issued pursuant to Article V, Section 11; and

WHEREAS, reorganizing the Department of Juvenile Justice will require a participatory and transparent process that involves multiple state agencies, members of the General Assembly, representatives of organized labor and the advocacy community; and

THEREFORE, I, Pat Quinn, Governor of Illinois, pursuant to the supreme executive authority of the Governor as set forth in Article V, Section 8 of the Illinois Constitution, do hereby order as follows:

I. STATEMENT OF POLICY

EXECUTIVE ORDER

All employees of the State of Illinois, employed in executive branch agencies that are directly responsible to the Governor [hereinafter "employees"], are hereby directed that the administration's policy is to seek the integration of the Department of Juvenile Justice into the Department of Children and Family Services by means of legislation.

II. COOPERATION

All employees are directed to cooperate and assist integrating the Department of Juvenile Justice into the Department of Children and Family Services.

a. Affected Agencies

The following offices and agencies (hereinafter "affected agencies") shall prioritize facilitating the integration of the Department of Juvenile Justice into the Department of Children and Family Services:

- i. The Office of the Governor
- ii. The Department of Children and Family Services
- iii. The Department of Juvenile Justice
- iv. The Department of Corrections
- v. The Department of Central Management Services
- vi. The Public Safety Shared Services Center
- vii. The Department of Human Services
- viii. The Department of Healthcare and Family Services.

III. EMPLOYEE RESPONSIBILITIES**a. Integration Plan**

The overall objective of the collaboration required by this executive order is to develop a plan (hereinafter "integration plan") for implementing in an expeditious and efficient manner, the formal and functional integration of the Department of Juvenile Justice into the Department of Children and Family Services. The integration plan will include, but is not limited to, the following elements:

- i. Legislation that modifies statute to implement the merger;
- ii. Administrative regulations or administrative directives necessary for the merger;
- iii. Interagency agreements that effectuate or facilitate the merger.

EXECUTIVE ORDER

- b. Collaboration with Organized Labor, Advocacy Organizations, and the Legislature

Employees of the affected agencies shall develop an integration plan in collaboration with:

- i. representatives of organized labor;
- ii. advocacy organizations, individuals experienced in juvenile court issues, and other stakeholders; and
- iii. the members and staff of the General Assembly to craft legislation.

IV. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any state or federal law.

V. EFFECTIVE DATE

This order shall become effective upon its filing with the Office of the Secretary of State.

Issued by the Governor: April 1, 2010

Filed with the Secretary of State: April 1, 2010

2010-06

EXECUTIVE ORDER TO TRANSFER FUNCTIONS FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF PUBLIC HEALTH

WHEREAS, the Illinois Department of Human Services (DHS) makes grants from the Diabetes Research Checkoff Fund, a special fund in the State treasury, to public or private entities in Illinois for the purpose of funding research concerning diabetes; and

WHEREAS, DHS, through its public health promotion programs and materials, directs information on diabetes, asthma, and pulmonary disorder prevention toward population groups in Illinois that are considered at high risk of developing these diseases; and

WHEREAS, DHS supports and staffs the Illinois State Diabetes Commission, which is chaired by the Secretary of DHS and whose members are appointed by the Secretary; and

WHEREAS, the Illinois Department of Public Health (DPH) has general supervision of the health and welfare of the people of Illinois; and

EXECUTIVE ORDER

WHEREAS, one of the missions of DPH is to educate the general public in matters pertaining to health, by publishing and distributing materials relating to the prevention and control of diseases; and

WHEREAS, DPH has considerable experience awarding grants to public or private agencies and organizations for the development of health programs or services; and

WHEREAS, transferring the diabetes-related grant program; the diabetes, asthma, and pulmonary disorder educational prevention functions; and the Illinois State Diabetes Commission, all described above, from DHS to DPH will be beneficial to both Departments and the people of the State of Illinois; and

WHEREAS, Article V, Section 11 of the Illinois Constitution provides that the Governor, by Executive Order, may reassign functions among or reorganize executive agencies which are directly responsible to him; and

WHEREAS, Section 3.2 of Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part, (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions; and

WHEREAS, DHS is an executive agency directly responsible to the Governor; and

WHEREAS, DPH is an executive agency directly responsible to the Governor;

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I, Patrick J. Quinn, Governor of Illinois, hereby order:

I. TRANSFER OF PROGRAM FUNCTIONS FROM DHS TO DPH

- a. Effective July 1, 2010, all program functions performed by DHS pursuant to Sections 10-9 and 10-10 of the Department of Human Services Act, 20 ILCS 1305/1-1 *et seq.*, and Public Act 094-0788, together with all of the powers, duties, rights, and responsibilities of DHS relating to those functions are transferred from DHS to DPH.
- b. Effective July 1, 2010, DPH shall make grants from appropriations from the Diabetes Research Checkoff Fund to recognized public or private entities in Illinois for the purpose of funding research concerning the disease of diabetes. At least 50% of the grants made from the Fund shall be made to entities that conduct research for juvenile

EXECUTIVE ORDER

- diabetes. For these purposes, the term "research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective in the detection, prevention, screening, management, and treatment of diabetes and may include clinical trials in Illinois. Moneys received for this purpose, including, without limitation, income tax checkoff receipts and gifts, grants, and awards from any public or private person or entity, shall be deposited into the Fund. Any interest earned on moneys in the Fund must be deposited into the Fund.
- c. Effective July 1, 2010, DPH shall include within its public health promotion programs and materials information to be directed toward population groups in Illinois that are considered at high risk of developing diabetes, asthma, and pulmonary disorders, such as Hispanics, people of African descent, the elderly, obese individuals, persons with high blood sugar content, and persons with a family history of diabetes. The information shall inform members of such high risk groups about the causes and prevention of diabetes, asthma, and pulmonary disorders, the types of treatment for these diseases, and how treatment may be obtained. By February 15, 2011, and each February 15 thereafter, DPH shall file a report with the General Assembly concerning its activities and accomplishments as to these educational prevention efforts during the previous calendar year.
- d. Effective July 1, 2010, the Illinois State Diabetes Commission is reconstituted within DPH.
- i. Members. The Commission shall consist of members that are residents of this State and shall include an Executive Committee appointed by the Director of DPH. The members of the Commission shall be appointed by the Director of DPH as follows:
- (1) The Director of DPH or the Director's designee, who shall serve as chairperson of the Commission.
 - (2) Physicians who are board certified in endocrinology, with at least one physician with expertise and experience in the treatment of childhood diabetes and at least one physician with expertise and experience in the treatment of adult onset diabetes.
 - (3) Health care professionals with expertise and experience in the prevention, treatment, and control of diabetes.
 - (4) Representatives of organizations or groups that advocate on behalf of persons suffering from diabetes.
 - (5) Representatives of voluntary health organizations or advocacy groups with an interest in the prevention, treatment, and control of diabetes.

EXECUTIVE ORDER

(6) Members of the public who have been diagnosed with diabetes.

The Director of DPH may appoint additional members deemed necessary and appropriate by the Director.

- ii. Appointments. Members of the Commission shall be appointed within 60 days after the effective date of this Executive Order. A member shall continue to serve until his or her successor is duly appointed and qualified.
- iii. Meetings. Meetings shall be held 3 times per year or at the call of the Commission chairperson.
- iv. Reimbursement. Members shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.
- v. Department Support of Commission. DPH shall provide administrative support and current staff as necessary for the effective operation of the Commission.
- vi. Duties. The Commission shall perform all of the following duties:
 - (1) Hold public hearings to gather information from the general public on issues pertaining to the prevention, treatment, and control of diabetes.
 - (2) Develop a strategy for the prevention, treatment, and control of diabetes in this State.
 - (3) Examine the needs of adults, children, racial and ethnic minorities, and medically underserved populations who have diabetes.
 - (4) Prepare and make available an annual report on the activities of the Commission to the Director of Public Health, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the Governor by June 30 of each year, beginning on June 30, 2011.
- vii. Funding. DPH may accept on behalf of the Commission any federal funds or gifts and donations from individuals, private organizations, and foundations and any other funds that may become available.

EXECUTIVE ORDER

- e. DHS and DPH shall cooperate to ensure that the transfer of these functions is completed as soon as practical.

II. EFFECT OF TRANSFER

- a. Neither the functions transferred by this Executive Order from DHS to DPH, nor any powers, duties, rights, and responsibilities related to those functions, shall be affected by this Executive Order, except that they shall all be performed or exercised by DPH from the effective date of the transfer.
- b. The staff of DHS engaged in the performance of the transferred functions may be transferred to DPH. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan shall not be affected by this Executive Order.
- c. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the functions transferred by this Executive Order from DHS to DPH, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be transferred to DPH. The transfer of that information shall not, however, violate any applicable confidentiality constraints.
- d. All unexpended appropriation balances and other funds available to DHS for use in connection with the functions transferred by this Executive Order shall be transferred and made available to DPH for use in connection with the functions transferred by this Executive Order. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

III. SAVINGS CLAUSE

- a. The powers, duties, rights, and responsibilities relating to the functions transferred from DHS to DPH by this Executive Order shall be vested in and shall be exercised by DPH. Each act done in exercise of such powers, duties, rights, and responsibilities shall have the same legal effect as if done by DHS or its divisions, officers, or employees.
- b. Every officer of DPH shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing laws for the same offense by

EXECUTIVE ORDER

- any officer whose powers or duties were transferred under this Executive Order.
- c. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon DHS in connection with any of the functions transferred by this Executive Order, the same shall be made, given, furnished, or served in the same manner to or upon DPH.
 - d. This Executive Order shall not affect any act done, ratified, or canceled, or any right occurring or established or any action or proceeding had or commenced in an administrative, civil, or criminal case regarding the functions of DHS before this Executive Order takes effect; such actions may be prosecuted or continued by DPH.
 - e. Any rules of DHS that relate to the functions transferred by this Executive Order that are in full force on the effective date of this Executive Order, and that have been duly adopted by DPH, shall become the rules of DPH. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by DHS that are pending in the rulemaking process on the effective date of this Executive Order, and that pertain to the functions transferred, shall be deemed to have been filed by DPH. As soon as practicable hereafter, DPH shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers, and duties affected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedure Act, except that existing title, part, and section numbering for the affected rules may be retained. DPH, consistent with DHS' authority to do so, may propose and adopt under the Illinois Administrative Procedure Act such other rules of DHS that will now be administered by DPH. To the extent that, prior to the effective date of the transfers, the Secretary of DHS had been empowered to prescribe regulations or had other authority with respect to the transferred functions, such duties shall be exercised from and after the effective date of the transfer by the Director of DPH.
 - f. For the purposes of the Successor Agency Act, DPH is declared to be the successor agency of DHS, but only with respect to the functions that are transferred to DPH by this Executive Order.
 - g. Whenever a provision of law refers to DHS in connection with its performance of a function that is transferred to DPH by this Executive Order, that provision shall be deemed to refer to DPH on and after the effective date of this Executive Order.

IV. SEVERABILITY

EXECUTIVE ORDER

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor: April 1, 2010

Filed with the Secretary of State: April 1, 2010

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