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April 20, 2012 Volume 36, Issue 16

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2012

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2011	January 6, 2012
2	January 3, 2012	January 13, 2012
3	January 9, 2012	January 20, 2012
4	January 17, 2012	January 27, 2012
5	January 23, 2012	February 3, 2012
6	January 30, 2012	February 10, 2012
7	February 6, 2012	February 17, 2012
8	February 14, 2012	February 24, 2012
9	February 21, 2012	March 2, 2012
10	February 27, 2012	March 9, 2012
11	March 5, 2012	March 16, 2012
12	March 12, 2012	March 23, 2012
13	March 19, 2012	March 30, 2012
14	March 26, 2012	April 6, 2012
15	April 2, 2012	April 13, 2012
16	April 9, 2012	April 20, 2012
17	April 16, 2012	April 27, 2012
18	April 23, 2012	May 4, 2012
19	April 30, 2012	May 11, 2012
20	May 7, 2012	May 18, 2012
21	May 14, 2012	May 25, 2012
22	May 21, 2012	June 1, 2012
23	May 29, 2012	June 8, 2012

24	June 4, 2012	June 15, 2012
25	June 11, 2012	June 22, 2012
26	June 18, 2012	June 29, 2012
27	June 25, 2012	July 6, 2012
28	July 2, 2012	July 13, 2012
29	July 9, 2012	July 20, 2012
30	July 16, 2012	July 27, 2012
31	July 23, 2012	August 3, 2012
32	July 30, 2012	August 10, 2012
33	August 6, 2012	August 17, 2012
34	August 13, 2012	August 24, 2012
35	August 20, 2012	August 31, 2012
36	August 27, 2012	September 7, 2012
37	September 4, 2012	September 14, 2012
38	September 10, 2012	September 21, 2012
39	September 17, 2012	September 28, 2012
40	September 24, 2012	October 5, 2012
41	October 1, 2012	October 12, 2012
42	October 9, 2012	October 19, 2012
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44	October 22, 2012	November 2, 2012
45	October 29, 2012	November 9, 2012
46	November 5, 2012	November 16, 2012
47	November 13, 2012	November 26, 2012
48	November 19, 2012	November 30, 2012
49	November 26, 2012	December 7, 2012
50	December 3, 2012	December 14, 2012
51	December 10, 2012	December 21, 2012
52	December 17, 2012	December 28, 2012

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 1st to July 2nd, 2012.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Livestock Auction Markets
- 2) Code Citation: 8 Ill. Adm. Code 40
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
40.100	Amendment
40.120	Amendment
40.160	Amendment
40.170	Amendment
- 4) Statutory Authority: Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/205-410]
- 5) A Complete Description of the Subjects and Issues Involved: Section 40.100 is being amended to address cattle entering the livestock auction market from brucellosis class free states or areas may be sold without test for brucellosis to be identified with an approved official eartag. Section 40.170 addresses swine entering the livestock auction market from brucellosis stage free states or areas that may be sold without test for brucellosis.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Cattle and Swine producers.
 - B) Reporting, bookkeeping or other procedures required for compliance: Eartag identification.
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: Rulemaking was not anticipated at the time of the past two regulatory agendas.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 40
LIVESTOCK AUCTION MARKETS

Section

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40.30	Veterinary Inspection
40.40	Veterinary Office
40.50	Detection of Diseased Animals
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40.70	Quarantine Pen
40.80	The Sale of Livestock for Immediate Slaughter
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40.100	Brucellosis Test
40.110	Sale of Official Brucellosis Calfhood Vaccinates
40.120	Feeder Cattle Subject to Quarantine
40.130	Backtagging
40.140	Yarding and Housing
40.150	Display License (Repealed)
40.160	Sale Day
40.170	Swine
40.180	Swine Which React to Test for Brucellosis
40.190	Sheep and Goats
40.200	Surety Bonds and Other Pledged Security
40.210	Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
40.220	Swine Movement Limitations (Repealed)
40.230	Disposition of Rejected Feeding or Breeding Swine
40.240	Director To Be Named Trustee (Repealed)
40.250	Animals Designated for Slaughter Only

AUTHORITY: Implementing and authorized by the Livestock Auction Market Law [225 ILCS 640] and Section 205-410 of the Civil Administrative Code of Illinois [20 ILCS 205/205-410].

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Regulations Relating to Livestock Auction Markets, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 14, 1973, effective December 24, 1973; filed March 2, 1976, effective March 12, 1976; amended at 2 Ill. Reg. 24, p. 73, effective June 15, 1978; codified at 5 Ill. Reg. 10442; amended at 8 Ill. Reg. 5956, effective April 23, 1984; amended at 10 Ill. Reg. 9754, effective May 21, 1986; amended at 12 Ill. Reg. 3411, effective January 22, 1988; amended at 14 Ill. Reg. 1943, effective January 19, 1990; amended at 16 Ill. Reg. 11793, effective July 8, 1992; amended at 18 Ill. Reg. 1869, effective January 24, 1994; amended at 20 Ill. Reg. 1546, effective January 12, 1996; amended at 20 Ill. Reg. 16192, effective January 1, 1997; amended at 21 Ill. Reg. 17085, effective January 1, 1998; amended at 23 Ill. Reg. 441, effective January 1, 1999; amended at 23 Ill. Reg. 9780, effective August 9, 1999; amended at 26 Ill. Reg. 127, effective January 1, 2002; amended at 26 Ill. Reg. 14624, effective September 23, 2002; amended at 28 Ill. Reg. 13396, effective October 1, 2004; amended at 30 Ill. Reg. 16576, effective October 9, 2006; amended at 36 Ill. Reg. _____, effective _____.

Section 40.100 Brucellosis Test

- a) Cattle entering the livestock auction market from brucellosis class free states or areas may be sold without testing for brucellosis.
- b) Cattle sold through the livestock auction market, other than those going direct to slaughter, and those that are not required to be tested for brucellosis, shall be identified with an approved, official eartag. Eartag identification of cattle, together with the name and address of consignor and purchaser, date of sale, breed and number purchased, shall be made a part of the records of the livestock auction market before the cattle leave the livestock auction market.
- c) All cattle entering the livestock auction market from states or areas other than brucellosis class free states must be in compliance with the following:
 - 1a) Except as otherwise provided in 8 Ill. Adm. Code 40.110 and 40.120, no female cattle more than 6 months of age or bulls over 18 months of age shall be sold unless ~~thesueh~~ cattle have been tested for brucellosis and were found negative within 60 days prior to sale. ~~TheSueh~~ test shall be recognized for one change of ownership or premises only within the 60-day period, except that ~~thesueh~~ cattle may change ownership or premises one or more times in the 14-day period immediately following the negative test.

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- 2b)** The livestock auction market veterinarian shall submit a copy of the Brucellosis Test Record, Market Cattle Testing Program, VS Form 4-54 and all blood samples to [a Department-approved laboratory](#)~~the State Federal Serology Laboratory, Springfield, Illinois,~~ following each sale.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 40.120 Feeder Cattle Subject to Quarantine

All female cattle of beef breeds over 6 and under 18 months of age from states that are not brucellosis ~~class free~~~~Class Free~~ under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, October 1, 2003) and the United States Department of Agriculture and/or 9 CFR 78.1 ([20112005](#)) sold or released from a livestock auction market for feeding or grazing purposes are subject to quarantine (8 Ill. Adm. Code 75.130) and shall be reported on Form M-107 Revised to the Department following each sale or at the end of each week.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 40.160 Sale Day

The regular sale day shall be recorded with the Department ~~of Animal Industries~~. All special sales or changes in the regular sale day shall be reported to the Department at least 5 days prior to ~~thesuch~~ change or sale.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 40.170 Swine

- a) In no case shall swine remain on the livestock auction market premises for more than 10 days.
- b) Out-of-state feeder swine shall enter Illinois accompanied by a health certificate and a permit (8 Ill. Adm. Code 105.10) and be eartagged to show state of origin, except that feeder swine consigned from the farm of origin directly to a federally approved market shall be tagged immediately upon arrival at the market. Such swine shall move directly into Illinois from the state of origin. A report of sale shall be made within 48 hours after the time of sale (on Form Z-5) to the

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Department, stating name and address of purchaser and number of animals purchased.

- c) Eartag identification of swine, together with the name and address of consignor and purchaser, date of sale, breed and number purchased, shall be made a part of the records of the livestock auction market before swine leave the livestock auction market.
- d) [Swine entering the livestock auction market from brucellosis class free states or areas may be sold without testing for brucellosis.](#) In accordance with Section 2 of the Illinois Swine Brucellosis Eradication Act [225 ILCS 95/2], all breeding swine 4 months of age and over shall be negative to an official test for brucellosis within 60 days prior to sale or originate from a validated brucellosis-free herd. ~~The Such~~ test shall be recognized for one change of ownership or premises only within the 60-day period.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Bovine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 75
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
75.5	Amendment
75.10	Amendment
75.15	Amendment
75.90	Amendment
75.120	Amendment
75.130	Amendment
75.160	Amendment
75.180	Amendment
75.190	Amendment
- 4) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30]
- 5) A Complete Description of the Subjects and Issues Involved: Update references to the Code of Federal Regulations; strike references to the State-Federal Serology Laboratory and replacing with Department-approved laboratory; Section 75.130 is being amended to address untested heifers between 6 and 18 months of age from non-brucellosis states or areas may enter Illinois. Section 75.160 is being amended to address female cattle entering Illinois to include beef breeds and dairy breeds. Section 75.180 is striking reference to "Dairy or Beef" in the Section title and subsection (b) is including all unvaccinated dairy or beef heifers "over 6 months of age and bulls more than 18 months of age originating from Non-Brucellosis Class Free States, areas or countries and bison over 6 months of age..."
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking 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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:
- Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281
- 217/785-5713
217/785-4505 (fax)
- 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: Rulemaking not anticipated at the time of the last two regulatory agendas.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
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PART 75
 BOVINE BRUCELLOSIS

Section

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AUTHORITY: Implementing and authorized by the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

SOURCE: Regulations Relating to Bovine Brucellosis, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 6, 1972, effective December 16, 1972; filed June 20, 1973, effective June 20, 1973; filed December 14, 1973, effective December 24, 1973; filed August 19, 1975, effective August 29, 1975; filed March 12, 1976, effective March 22, 1976; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; amended at 3 Ill. Reg. 34, p. 96, effective August 24, 1979; amended at 5 Ill. Reg. 720, effective January 2, 1981; codified at 5 Ill. Reg. 10453; amended at 7 Ill. Reg. 1737, effective January 28, 1983; amended at 7 Ill. Reg. 1733, effective February 2, 1983; amended at 8 Ill. Reg. 5891, effective April 23, 1984; amended at 9 Ill. Reg. 4483, effective March 22, 1985; amended at 9 Ill. Reg. 19647, effective January 1, 1986; amended at 10 Ill. Reg. 9741, effective May 21, 1986; amended at 11 Ill. Reg. 10169, effective May 15, 1987; amended at 12 Ill. Reg. 3386, effective January 22, 1988; amended at 13 Ill. Reg. 3636, effective March 13, 1989; amended at 14 Ill. Reg. 1911, effective January 19, 1990; amended at 18 Ill. Reg. 1833, effective January 24, 1994; amended at 20 Ill. Reg. 1509, effective January 12, 1996; amended at 20 Ill. Reg. 16181, effective January 1, 1997; amended at 21 Ill. Reg. 17040, effective January 1, 1998; amended at 23 Ill. Reg. 397, effective January 1, 1999; amended at 23 Ill. Reg. 9764, effective August 9, 1999; amended at 28 Ill. Reg. 13400, effective October 1, 2004; amended at 30 Ill. Reg. 10067, effective May 22, 2006; amended at 34 Ill. Reg. 19376, effective January 1, 2011; amended at 36 Ill. Reg. _____, effective _____.

Section 75.5 Definitions

The definitions for this Part shall be as stated in 8 Ill. Adm. Code 20.1. The following definition shall also apply:

"Act" means the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

"Registered animal" means an animal for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association. The breed associations recognized by the Department are those recognized by the United States Department of Agriculture (USDA) (9 CFR 51.1, [20112005](#)).

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(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.10 Official Classification of the Results of the Brucellosis Blood Test

- a) The official tests and classification of results for the brucellosis blood and milk tests shall be as prescribed in the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, October 1, 2003) and the USDA and/or 9 CFR 78.1 ([20112009](#)).
- b) The Buffered Acidified Plate Antigen (BAPA) test or other official test approved by the USDA and Department shall be the official tests used at licensed livestock auction markets in the State.
- c) The official brucellosis test for cattle or bison imported into Illinois shall be one conducted at an approved laboratory.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.15 Permits to Conduct Official Brucellosis Tests

- a) A permit to operate a laboratory to conduct blood serum agglutination tests for brucellosis will be issued when the applicant has:
 - 1) Completed a Department permit application and returned it to the Department.
 - 2) Received oral instruction on testing procedures from ~~Department~~[State-Federal Serology Laboratory](#) personnel.
 - 3) Completed a check test conducted at ~~a Department-approved laboratory~~[the State-Federal Serology Laboratory](#) of 100 bovine brucellosis serum samples, with a score of at least 90% accuracy.
- b) Retesting of the person permitted to operate a laboratory to conduct brucellosis tests will occur when tests performed by the permittee fail to disclose three or more reactors as determined by confirmation tests at ~~a Department-approved laboratory~~[the State-Federal Serology Laboratory](#).

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- c) The Department may suspend or revoke a permit to operate a laboratory when the permittee does the following:
- 1) Fails to follow the instructions provided by the [Department](#)~~State-Federal Serology Laboratory~~ regarding testing procedures and required testing equipment.
 - 2) Fails to maintain the laboratory and laboratory equipment in a clean and sanitary condition.
 - 3) Fails to keep all required reagents, forms and testing supplies under the control of the permittee at all times.
 - 4) Fails to submit testing records and blood serum samples to the Department as prescribed for confirmatory testing.
 - 5) Fails retesting as provided for in subsection (b).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.90 Release of Herds ~~of~~ Cattle or Bison Under Quarantine

- a) Herds which disclose reactors shall be quarantined until depopulated or official tests indicate brucellosis infection no longer exists in the herd.
- b) An additional official test of all test-eligible cattle or bison in the herd is required not less than 6 months after release of the herd quarantine or not less than 10 months after removal of the last reactor. For the purpose of this Section, "test-eligible" cattle or bison means all cattle or bison 6 months of age or over except steers, spayed heifers, and official brucellosis calfhood vaccinates under 24 months of age for beef breeds or bison and 20 months of age for dairy breeds.
- c) Such herd retests shall be conducted at State-Federal expense; provided, funds are available. The blood samples shall be submitted for diagnosis to an approved laboratory.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.120 Requirements for Establishing and Maintaining Certified Brucellosis-Free

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Herds of Cattle or Bison

Certified brucellosis-free herds shall be established and maintained in accordance with the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; October 1, 2003) and the USDA and/or 9 CFR 78.1 ([20112009](#)).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.130 Feeding or Grazing Cattle

- a) All steers and spayed heifers, and calves ~~of the beef breeds~~ under 6 months of age may enter Illinois when accompanied by an official interstate health certificate OR by a permit from the Department. A permit may be obtained by telephoning or writing the Department. Steers and spayed heifers are not subject to quarantine restrictions.
- b) Heifers, untested, ~~of the beef breeds~~ over 6 months of age and under 18 months for feeding and grazing purposes only from ~~Non-Brucellosis Class Free Class A, B, or C~~ states ~~or areas~~ may enter Illinois when accompanied by an official interstate health certificate AND a permit from the Department. They are placed under quarantine at destination and shall be held under quarantine for the period of feeding, not to exceed 12 months, with an extension of 90 days granted on request to the Department. Heifers, untested, ~~of the beef breeds~~ over 6 months of age and under 18 months for feeding and grazing purposes only from Class Free states may enter Illinois when accompanied by an official interstate health certificate and will not be placed under quarantine at destination.
- c) The owner shall report to the Department the disposition of heifers which are under quarantine for feeding and grazing purposes. If such heifers are retained longer than the allowed feeding period, they shall be tested for brucellosis at owner's expense. All brucellosis blood tests for release of quarantine shall be conducted at an approved laboratory.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.160 Female Cattle ~~—Beef Breeds—~~ 18 Months and Over

Female cattle ~~of the beef breeds~~ 18 months of age and over, for feeding or grazing purposes only,

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may enter Illinois if they are accompanied by an official interstate health certificate showing:

- a) Negative brucellosis blood test conducted at a State or Federal Laboratory within 30 days prior to entry, OR
- b) The animals to be under 24 months of age [for beef breeds and under 20 months of age for dairy breeds](#) and officially calfhood vaccinated against brucellosis, OR
- c) Originated from a Brucellosis Class Free State, [area](#), or country or a Certified Brucellosis-Free Herd.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.180 ~~Dairy or Beef~~ Cattle or Bison

- a) All sexually intact cattle or bison transported or moved into the State of Illinois, unless said cattle or bison are consigned direct to and delivered by the transportation company within the confines of a public stockyards, livestock auction market or marketing center, shall be accompanied by an official certificate of health showing:
 - 1) All such cattle or bison over 6 months of age are negative to brucellosis blood test within 30 days prior to shipment, OR
 - 2) All cattle originated from a certified brucellosis-free herd, Class Free State, [area](#), or country, or bison from a certified brucellosis-free herd. State status is not recognized for bison. Certified herd number shall be given and the cattle or bison shall be identified by ear tag number, registration name and number, dam's registration number, or record association approved individual tattoo, OR
 - 3) Cattle are official brucellosis calfhood vaccinates under 24 months of age for beef breeds or bison and 20 months of age for dairy breeds.
- b) All unvaccinated ~~dairy or beef~~ heifers [over 6 months of age bulls more than 18 months of age originating from Non-Brucellosis Class Free states, areas, or countries](#), ~~and~~ bison over 6 months of age ~~or bulls more than 18 months of age~~ moving through an out-of-state auction market or marketing center must be accompanied by an official health certificate showing a negative test for

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brucellosis within 30 days prior to entry, ~~regardless of state or herd status~~.

Official brucellosis calfhood vaccinates do not need to be tested until they are 24 months of age for beef breeds and bison and 20 months of age for dairy breeds.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 75.190 Additional Requirements on Cattle and Bison from States Designated as Class B and Class C States

- a) In addition to other entry requirements, a prior permit must be obtained for all cattle or bison, except those consigned direct to slaughter or calves under 6 months of age except as further provided for in this Section, entering Illinois from states designated by the U.S. Department of Agriculture as Class B and Class C under provisions of the Brucellosis Eradication Uniform Methods and Rules as recommended and approved by the United States Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and by the USDA (October 1, 2003). Such prior permits shall be obtained by contacting the Bureau of Animal Health [and Welfare](#), Illinois Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281, telephone 217/782-4944. Information regarding the origin, destination and description of the cattle along with the number of animals in the shipment is necessary for obtaining a permit.
- b) Breeding cattle or bison 12 months of age or over from such states shall be placed under quarantine and in isolation until retested and negative to an official test for brucellosis conducted not less than 45 days nor more than 120 days after entering Illinois. Breeding cattle or bison originating from certified brucellosis-free herds are exempt from this provision.
- c) All female cattle or bison born after July 1, 1985, if more than 4 months of age, except spayed heifers (female cattle or bison may be spayed after entry into Illinois with prior approval from the Department which will be given upon receipt of the name of the veterinarian who will be performing the operation) or those consigned directly to slaughter, entering Illinois from Class B or Class C states must be official calfhood vaccinates and vaccination status shall be recorded on the official interstate health certificate. In lieu of calfhood vaccination, cattle from Class B states entering Illinois for feeding purposes only may be identified with a hot iron brand on either hip using the letter F of not less than three inches in height.

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- d) Female cattle or bison, except those consigned directly to slaughter, entering Illinois from Class C states shall, in addition to present entry requirements now on file, either originate from a certified brucellosis-free herd or be spayed and be officially identified by a hot iron brand on either hip using an open spade design (e.g., as used in playing cards) of not less than three inches in height. Certification of spaying by an accredited veterinarian is to be shown on the official interstate health certificate. Female cattle or bison may be spayed after entry into Illinois with prior approval from the Department which will be given upon receipt of the name of the veterinarian who will be performing the operation.
- e) Calves under two months of age not accompanied by their dams may be imported from Class C states if they meet the following requirements:
- 1) An entry permit shall be obtained on all shipments. All such calves shall be quarantined until shipped to slaughter or neutered (spayed or castrated).
 - 2) All calves shall be accompanied by the Certificate of Veterinary Inspection (i.e., health certificate) and shall be individually identified by official eartags. The eartag numbers shall be recorded on the Certificate.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Swine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 100
- 3) Section Number: 100.30 Proposed Action:
Amendment
- 4) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]
- 5) A Complete Description of the Subjects and Issues Involved: Update reference to the Code of Federal Regulations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking 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 rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713

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217/785-4505 (fax)

- 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: No additional skills necessary.
- 14) Regulatory agenda on which this rulemaking was summarized: Rulemaking not anticipated at the time of the filing of the last two regulatory agendas.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 100
SWINE BRUCELLOSIS

Section

- 100.10 Requirements for Establishing and Maintaining Validated Brucellosis-Free Herds of Swine
- 100.20 Brucellosis Reactors Disclosed in Non-Validated Swine Herds
- 100.30 Breeding Animals Consigned to Slaughter

AUTHORITY: Implementing and authorized by the Illinois Swine Brucellosis Eradication Act [510 ILCS 95], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]

SOURCE: Adopted at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; codified at 5 Ill. Reg. 10460; amended at 7 Ill. Reg. 871, effective January 10, 1983; amended at 11 Ill. Reg. 10531, effective May 21, 1987; amended at 12 Ill. Reg. 3432, effective January 22, 1988; amended at 14 Ill. Reg. 1953, effective January 19, 1990; amended at 20 Ill. Reg. 1557, effective January 12, 1996; amended at 23 Ill. Reg. 456, effective January 1, 1999; amended at 36 Ill. Reg. _____, effective _____.

Section 100.30 Breeding Animals Consigned to Slaughter

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag (9 CFR 78.33, [2011+998](#)). Incorporation by reference does not include any later amendments or editions beyond the date specified. A report of such identification (9 CFR 78.33(d), [2011+998](#)) shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department within 30 days of application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Swine Disease Control and Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 105
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
105.10	Amendment
105.30	Amendment
105.90	Amendment
105.120	Amendment
105.130	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95]
- 5) A Complete Description of the Subjects and Issues Involved: Update references to the Code of Federal Regulations; and, in Section 105.130, remove criteria for approved ear tags that conforms with a nine digit alphanumeric system or with a three letter and four number system on one side.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

DEPARTMENT OF AGRICULTURE

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Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine producers
 - 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: Rulemaking not anticipated at the time of the filing of the last two regulatory agendas.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 105
SWINE DISEASE CONTROL AND ERADICATION ACT

Section	
105.5	Definitions
105.7	Incorporation by Reference
105.10	Swine Entering Illinois for Feeding Purposes Only
105.20	Quarantine of Imported Feeder Swine (Repealed)
105.30	Swine Entering Illinois for Breeding Purposes
105.40	Pseudorabies (Aujeszky's Disease) in Swine (Repealed)
105.41	General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.42	Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds (Repealed)
105.44	Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds (Repealed)
105.46	Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.50	Official Pseudorabies Test (Repealed)
105.60	Pseudorabies Test Requirements for Intrastate Movement (Repealed)
105.70	Pseudorabies Testing of Feeder Swine (Repealed)
105.80	Feeder Swine (Repealed)
105.90	Feral Swine
105.100	Feeder Swine Moving Through Pig Shows/Sales
105.110	Swine Entering Illinois for Exhibition Purposes Other Than Through Show/Pig Sales
105.120	Illinois Exhibition Swine
105.130	Requirements for Establishing and Maintaining a Herd Under the Voluntary Porcine Reproductive and Respiratory Disease (PRRS) Monitored Herd Program

AUTHORITY: Implementing and authorized by the Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

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SOURCE: Rules and Regulations Relating to the Illinois Swine Disease Control and Eradication Act, filed February 24, 1975, effective March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15, 1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill. Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p. 745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effective October 27, 1981; codified at 5 Ill. Reg. 10461; amended at 5 Ill. Reg. 13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998, effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective February 15, 1985; amended at 9 Ill. Reg. 18435, effective November 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21, 1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987; amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at 12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill. Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg. 1961, effective January 19, 1990; amended at 14 Ill. Reg. 15322, effective September 10, 1990; amended at 16 Ill. Reg. 11799, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5910, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14010, effective August 16, 1993; amended at 18 Ill. Reg. 1880, effective January 24, 1994; amended at 18 Ill. Reg. 17968, effective January 1, 1995; amended at 20 Ill. Reg. 1563, effective January 12, 1996; amended at 21 Ill. Reg. 917, effective January 7, 1997; amended at 21 Ill. Reg. 17094, effective January 1, 1998; amended at 23 Ill. Reg. 459, effective January 1, 1999; amended at 24 Ill. Reg. 1017, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 8625, effective June 15, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16635, effective November 1, 2000; amended at 26 Ill. Reg. 98, effective January 1, 2002; amended at 26 Ill. Reg. 14630, effective September 23, 2002; amended at 36 Ill. Reg. _____, effective _____.

Section 105.10 Swine Entering Illinois for Feeding Purposes Only

- a) Feeder swine, except feral swine, may enter Illinois provided they are identified by an ear tag or site tattoo in the right ear showing state of origin and accompanied by a permit from the Department and an official health certificate.
- b) Official health certificate shall:
 - 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
 - 2) Be approved by the Animal Health Official of state of origin;
 - 3) Show that the feeder swine are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto;

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- 4) Show that the feeder swine are not from a quarantined herd and/or area;
 - 5) List number and description of the feeder swine, site tattoos, ear tag series or location of ear tag records when pigs originate from cooperative feeder pig sales; and
 - 6) Show that the swine originate from a herd in which a representative sample of the herd has been tested and found negative for pseudorabies (8 Ill. Adm. Code 115.80), originate from a qualified pseudorabies negative or pseudorabies negative gene-altered vaccinated herd that is conducting monthly monitoring tests or originate from a state that has been classified as Stage IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.
- c) Permits:
- 1) Permits to import feeder swine shall only be issued to:
 - A) An Illinois licensed feeder swine dealer; and
 - B) A person importing pigs to feed on his own premises and not for resale other than to slaughter.
 - 2) Applicant for permit shall furnish the following information to the Department:
 - A) Name and complete mailing address of Illinois destination.
 - B) Name and address of consignor.
 - C) Number of swine in shipment.
 - D) Pseudorabies vaccination status of swine.
 - 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or this Part.

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- B) If a person should be licensed under the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620] and his or her license is not in good standing with the Department.
- C) Presence of a disease which might endanger the Illinois swine industry.
- d) Imported isowean or feeder swine from Stage I or II states shall be quarantined to the Illinois premises until a 95/10 random sample test has been performed on the imported animals 21 to 60 days post-importation.
- e) Feeder swine entering Illinois in accordance with the provisions governing the interstate movement of swine within a production system (9 CFR 71 and 9 CFR 85, [20112002](#)) are exempt from the certificate of veterinary inspection, individual identification and permit requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 105.30 Swine Entering Illinois for Breeding Purposes

- a) Swine for breeding purposes, or of breeding age, returning to Illinois after exhibition, except feral swine, may enter Illinois provided they are accompanied by a permit from the Department and an official health certificate.
- b) Official health certificate shall:
 - 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
 - 2) Be approved by the Animal Health Official of the state of origin;
 - 3) Identify each animal by registration number, approved ear tag, breed registry tattoo, or ear notch approved by the respective breed registry;
 - 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
 - 5) Show that the swine are not from a quarantined herd and/or area;

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- 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated brucellosis-free state or area (Swine Brucellosis Eradication Uniform Methods and Rules); and
 - 7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 15 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd where at least half of the last monitoring test has been conducted within 15 days (testing half of the required monthly number of swine every 15 days is acceptable – Stage I or II states only; monthly testing is acceptable in Stage III states), with the qualified herd number and qualification date listed on the health certificate, pseudorabies vaccination status of swine, OR that the swine originated from a country that meets the requirements for Stage V or from a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.
- c) Permits:
- 1) Permits to import breeding swine shall be issued by telephoning or writing the Department.
 - 2) Applicant for permit shall furnish the following information to the Department:
 - Name and complete mailing address of Illinois destination;
 - Name and address of consignor;
 - Number of swine in shipment; and

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Pseudorabies vaccination status of swine.

- 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or this Part; and
 - B) Presence of a disease which might endanger the Illinois swine industry.
- d) Imported breeding animals or swine of breeding age returning to Illinois after exhibition shall be kept quarantined and isolated until a percentage of the imported breeding swine are retested and negative to an official test for pseudorabies conducted not less than 21 days nor more than 60 days after entering Illinois. If the number of imported breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 imported breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested. Imported breeding swine originating from a country that meets the requirements for Stage V or a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards ~~are~~ exempt from the isolation and retest provisions. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.
- e) Breeding swine entering Illinois in accordance with the provisions governing the interstate movement of swine within a production system (9 CFR 71 and 9 CFR 85, ~~2011~~2002) are exempt from the certificate of veterinary inspection, individual identification and permit requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 105.90 Feral Swine

- a) Feral swine may enter Illinois for any reason provided they are accompanied by a permit from the Department and an official health certificate.
- b) The official health certificate shall:

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- 1) be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
 - 2) be approved by the Animal Health Official of the state of origin;
 - 3) identify each animal by official ear tag;
 - 4) show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
 - 5) show the swine are not from a quarantined herd and/or area;
 - 6) show any swine to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry; and
 - 7) show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry.
- c) Permits:
- 1) Permits to import feral swine shall be issued by telephoning or writing the Department.
 - 2) Applicant for permit shall furnish the following information to the Department:

Name and mailing address of Illinois destination;
Name and address of consignor; and
Number of swine in shipment.
 - 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or any rule of this Part; and
 - B) Presence of a disease which might endanger the Illinois swine industry.
- d) A percentage of the swine shall be retested and negative to an official test for

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pseudorabies conducted not less than 21 days nor more than 60 days after entering Illinois. If the number of animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 105.120 Illinois Exhibition Swine

Illinois exhibition swine of any age must meet the following requirements:

- a) Be accompanied by a health certificate issued within 90 days prior to exhibition and individually identified by an official ear tag, tattoo or recognized ear notch. Ear notch identification is acceptable for barrows, crossbred gilts and breeding swine.
- b) Official health certificate shall:
 - 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
 - 2) Show that the exhibition swine are free from visible evidence of any contagious, infectious or communicable disease or exposure to those diseases;
 - 3) Show that the exhibition swine are not from a quarantined herd and/or area; and
 - 4) Show that the swine are negative to an official test for pseudorabies conducted within the 90 days prior to exhibition; or that the swine originated from a qualified pseudorabies negative herd and the qualified pseudorabies negative herd number and date of last qualification test is listed on the health certificate.

Illinois swine exhibited in Stage I or Stage II states or out-of-state shows allowing Stage I or II state pigs to exhibit returning to Illinois must be isolated and retested negative to an official test for pseudorabies 21-60 days after returning to Illinois before being able to be exhibited in Illinois or return to the herd of origin.

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Swine consigned to terminal market classes must meet the same test requirements as exhibition swine if these classes are held "exhibits not intended for slaughter." When terminal classes are held on a day when no other livestock are present, these animals are exempt from all test requirements and do not need a health certificate. All swine in terminal classes must be identified by a site tattoo. Swine from pseudorabies quarantined herds are not allowed to exhibit regardless of whether the show is terminal or non-terminal.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 105.130 Requirements for Establishing and Maintaining a Herd Under the Voluntary Porcine Reproductive and Respiratory Disease (PRRS) Monitored Herd Program

- a) The following definitions shall be applicable to this Section:

"Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture or the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis that it is using USDA approved methods).

"Herd" or "premises" means all animals under common ownership or supervision on a specific geographic area. The herd or premises is defined by the owner and veterinarian, and may include all or a portion of pork production under their control. A premises describes a physical space that is dedicated for use by the producer when entering the PRRS monitored herd program. For an entire production system to be monitored, all phases of production must be sampled and participate in the program. Producers can select the production group they wish to monitor. All phases of production up to and including the "selected" group must participate in the program. If multiple locations input swine into the proposed PRRS monitored production herd or premises, all sites must be sampled separately to validate the final PRRS monitoring herd defined premises.

"PRRS" means porcine reproductive and respiratory syndrome.

- b) Criteria for herd to enter into or to remain in the voluntary monitoring herd program:
- 1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.

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- 2) All breeding swine that have been tested must have permanent identification such as registry association approved individual tattoo, ear notch, registration number or approved ear tags. "Approved ear tags" means any ear tag that is tamper resistant, has been approved for use either by the USDA or the Illinois Department of Agriculture, ~~and conforms either with a nine digit alphanumeric system starting with "33" (the postage code for Illinois) followed by three letters and four numbers or with a three letter and four number system on one side and either "Illinois" or "IL" on the reverse side.~~ Information concerning manufacturers of approved ear tags may be obtained from the Department.
- 3) The owner annually signs a producer agreement form verifying that the producer or manager:
- A) understands the clinical signs of PRRS;
 - B) identifies a herd veterinarian;
 - C) agrees to work with that veterinarian in the event clinical signs of PRRS develop;
 - D) identifies the premises and animal production groups that will be monitored and the average number of animals per premises or production group; and
 - E) outlines the testing procedure employed to verify PRRS testing qualifications.
- 4) Quarter sample size for initial monitoring for all production systems and for monitoring phase for farrow-weaning sites (Table A):

Population size: Breeding females or maximum G-F	Breeding herd females	G-F Swine (Grow-Finisher)
10 and under	9	9
11-20	15	15
21-30	18	18
31-40	20	20
41-50	22	22

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51-100	25	25
101-200	27	27
201-1000	28	28
1001 and above	29	29

- 5) Quarterly sample size for monitoring phase for farrow-finish and farrow-feeder pig herds (Table B):

<u>Population size: Breeding females or maximum G-F</u>	<u>Breeding herd females</u>	<u>G-F Swine (Grow-Finisher)</u>
10 and under	7	7
11-20	10	10
21-30	11	11
31-40	12	12
41-50	12	12
51-200	13	13
201 and above	14	14

- 6) Upon completion of the four qualifying tests, the Director shall issue a certificate of PRRS monitoring for the herd. A new certificate will be issued annually upon completion of the required monitoring test and the receipt of the annual producer agreement form.

- c) Procedure for monitoring farrow-finish and seedstock producer herds:

- 1) Initial herd monitoring:

- A) Test the required number of swine (Table A) in the grow-finisher herd at 90-day intervals (+ or - 15 days) for a period of 12 months (4 tests total).
- B) Blood test the required number of breeding stock (Table A) at 90-day intervals (+ or - 15 days) for a period of 12 months (4 tests total). No sow shall be sampled twice with 101 sows or more in the breeding herd. Individual identification is required.
- C) External additions must be held in isolation and either tested prior to or within 10 days after arrival and identified and tested 40-60 days after arrival. Only after the retest can the animal be released

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from isolation. If a positive animal is detected, all co-mingled animals must be retested 30-40 days after the positive is disclosed. Any PRRS positive animal must be promptly removed from the monitored premises.

- D) All internal replacements (gilts, boars, teaser boars) must be PRRS test negative prior to entry into the breeding herd.
- 2) Maintenance of monitored herd status:
- A) Test animals in the grow-finisher according to Table B on 90-day intervals (+ or - 15 days). Pigs must weigh at least 90 pounds.
 - B) Test breeding herd according to Table B on 90-day intervals (+ or - 15 days). Sows must be of all parities and from each production phase (gestation, post-weaning, lactation, and off-premises gestation). Individual identification is required.
 - C) Additions to the herd shall be as prescribed above.
- d) Procedure for monitoring farrow-feeder pig premises:
- 1) Initial herd monitoring:
 - A) Test the required number of feeder pigs (Table A) at 90-day intervals (+ or - 15 days) for a period of 12 months (4 tests). The sample should represent the oldest pigs in the nursery. Pigs must be present in the nursery at least two weeks prior to the sampling to be eligible for testing. No identification is required. Multiple pens and litters must be sampled.
 - B) Test the required number of breeding swine (Table A) at 90-day intervals (+ or - 15 days) for a period of 12 months (4 tests). No sow will be sampled twice in herds of 101 or more sows during the year. Individual identification is required.
 - C) External additions must be held in isolation and either tested prior to or within 10 days after arrival and identified and tested 40-60 days after arrival. Only after the test can the animal be released

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from isolation. If a positive animal is detected, all in-contact animals must be retested 30-40 days after the positive is disclosed. Any PRRS positive animal must be promptly removed from the monitored premises.

- D) All internal replacements (gilts, boars, teaser boars) must be PRRS test negative prior to entry into the breeding herd.
- 2) Maintenance of monitored herd status:
- A) Test the feeder pigs according to Table B on 90-day intervals (+ or - 15 days). The sample should represent the oldest pigs in the nursery. Pigs must be present in the nursery at least two weeks prior to the sampling to be eligible for testing. No identification is required. Multiple pens and litters must be sampled.
 - B) Test breeding herd according to Table B on 90-day intervals (+ or - 15 days). Sows must be of all parities and from each production phase (gestation, post-weaning, lactation, and off-premises gestation). Individual identification is required.
 - C) Additions to the herd shall be as prescribed above.
- e) Procedure for monitoring farrow-weaning pig premises:
- 1) Initial herd monitoring:
 - A) No piglet sampling is required.
 - B) Test the required number of breeding swine (Table A) at 90-day intervals (+ or - 15 days) for a period of 12 months (4 tests). No sow will be sampled twice in herds of 101 or more sows during the year. Individual identification is required.
 - C) External additions must be held in isolation and either tested prior to or within 10 days after arrival and identified and tested 40-60 days after arrival. Only after the retest can the animal be released from isolation. If a positive animal is detected, all in-contact animals must be retested 30-40 days after the positive is disclosed.

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Any PRRS positive animal must be promptly removed from the monitored premises.

- D) All internal replacements (gilts, boars, teaser boars) must be PRRS test negative prior to entry into the breeding herd.
- 2) Maintenance of monitored herd status:
 - A) No piglet sampling is required.
 - B) Test breeding herd according to Table B on 90-day intervals (+ or - 15 days). Sows must be of all parities and from each production phase (gestation, post-weaning, lactation and off-premises gestation). Individual identification is required.
 - C) Additions to the herd shall be as prescribed above.
- f) Procedure for monitoring boar stud premises where only seronegative boars can reside:
 - 1) Initial herd monitoring:
 - A) All boars must be tested every six months (+ or - 15 days) for a period of 12 months (two tests).
 - B) All incoming boars must be tested prior to arrival or within 10 days after arrival and again 40-60 days after arrival. Boars must originate from a farm where there has been no evidence of PRRS for at least one year. The herd of origin must not be using PRRS vaccine.
 - 2) Maintenance of monitored herd status:
 - A) Test the required number of boars (Table B) every 90 days (+ or - 15 days).
 - B) All incoming boars must be tested prior to arrival or within 10 days after arrival and again 40-60 days after arrival. Boars must originate from a farm where there has been no evidence of PRRS

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for at least one year. The herd of origin must not be using PRRS vaccine.

- g) Suspension or revocation of monitored herd status:
- 1) If a positive animal is detected during a monitoring test, the monitored herd status shall be suspended until all in-contact animals have been retested 30-40 days after the positive is disclosed. Any PRRS positive animals must be promptly removed from the monitored premises. If subsequent positives are revealed, the monitored herd status shall be revoked.
 - 2) Failure to conduct the required testing shall result in the revocation of the monitored herd status.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Animal Disease Laboratories Act
- 2) Code Citation: 8 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
110.10	Amendment
110.50	Amendment
110.90	Amendment
- 4) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10]
- 5) A Complete Description of the Subjects and Issues Involved: Updating fees for bacterial serology tests.
- 6) Published studies or ports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713

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217/785-4505 (fax)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Animal disease laboratories and entities requesting tests.
 - 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: Rulemaking was not anticipated during the filing of the last two agendas.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110
ANIMAL DISEASE LABORATORIES ACT

Section	
110.10	Definitions
110.20	Submitting Specimens
110.30	Payment For Laboratory Services
110.40	Tests Not Covered By Fee Schedule
110.50	Minimum Fees
110.60	Euthanasia Fees
110.70	Clinical Pathology Fees
110.80	Histopathology Fees
110.90	Microbiology Fees
110.100	Parasitology Fees
110.110	Toxicology Fees
110.120	Miscellaneous Fees
110.130	Meats Chemistry Fees
110.140	Liquor Control Commission Fees (Repealed)

AUTHORITY: Implementing and authorized by the Animal Disease Laboratories Act [510 ILCS 10].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 20 Ill. Reg. 255, effective January 1, 1996; amended at 20 Ill. Reg. 16176, effective January 1, 1997; amended at 21 Ill. Reg. 17034, effective January 1, 1998; amended at 23 Ill. Reg. 386, effective January 1, 1999; amended at 23 Ill. Reg. 9754, effective August 9, 1999; amended at 24 Ill. Reg. 990, effective January 10, 2000; amended at 24 Ill. Reg. 16606,

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effective November 1, 2000; amended at 26 Ill. Reg. 105, effective January 1, 2002; amended at 28 Ill. Reg. 2104, effective February 1, 2004; amended at 30 Ill. Reg. 10080, effective May 22, 2006; amended at 34 Ill. Reg. 19439, effective January 1, 2011; amended at 35 Ill. Reg. 19768, effective January 1, 2012; amended at 36 Ill. Reg. _____, effective _____.

Section 110.10 Definitions

"Accession" is one animal or group of animals or samples from the same location, representative of a single disease or disease problem, and received at the laboratory on the same day.

"C" indicates the test is performed at the Animal Disease Laboratory – Centralia.

"Department" means the Illinois Department of Agriculture.

"G" indicates the test is performed at the Animal Disease Laboratory – Galesburg.

"I" indicates inactive test; call the laboratory prior to submission.

"Non-agricultural samples" include all samples of municipal and private water submitted for potability testing and/or chemical or bacteriological screening; all samples from companion animals~~members of the canine or feline species~~ for any type of procedure or testing; all samples submitted for Meats chemistry analysis, other than those submitted by ~~Illinois~~ Department ~~of Agriculture~~ personnel; and all environmental samples (soil, water or vegetation) not involved with production of a cash or feed crop.

"S" indicates the test is performed at the State-Federal Serology Laboratory, Springfield.

"Specimen" is any animal or plant tissue or substance to which a test or procedure is applied.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 110.50 Minimum Fees

- a) A submission fee of \$2 per accession shall be charged on all accessions. ~~Persons submitting specimens for which there are no charges for the laboratory procedure~~

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~~shall be exempt from the minimum fee.~~

- b) The necropsy fee is ~~dependent upon animal size~~\$45 per accession. Current fees are available at the laboratories or the Department's website: www.agr.state.il.us. A fee cap of \$150 will apply to diagnostic cases with necropsies when multiple tests are required to complete a diagnosis. Mailed-in cases with multiple tests in which the practitioner has necropsied the animals will be subject to the same \$150 fee cap. Toxicology tests and disposal ~~charges for~~of the carcasses ~~are not~~will not be included in the cap and will be billed according to the fee schedule. Upon submission, all carcasses become the property of the State of Illinois, to be disposed of in any manner consistent with Illinois law. No portion ~~of the carcass~~thereof, except the ashes resulting from cremation of the carcass, will be returned to the previous owner.
- c) Toxicologic tests shall be performed only after consultation with, and approval from, the person who requested the laboratory services at the fees set forth in this Part.
- ~~d) All fees shall be doubled on all out-of-state owners, unless a specific charge is noted or the sample is referred from another state diagnostic laboratory at which time only the in-state fee will be charged.~~
- ~~de)~~ Accessions submitted as rush priority will be charged at least twice the normal rate. If the cost of complying with the rush exceeds twice the normal charges, additional charges will be applied to cover commodity costs. This charge will apply to the submissions of any individual requesting results faster than the normal laboratory turnaround, including, but not limited to, samples placed ahead of already pending samples, samples run outside of normal schedules, and testing requested on weekends, holidays or after normal laboratory working hours.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 110.90 Microbiology Fees

The following are the fees for microbiology (per sample or pool unless otherwise specified):

- a) Bacteriology, Mycoplasma and Fungi

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1)	Aerobic or anaerobic culture without sensitivity testing	15.00 C, G
2)	Antibiotic sensitivity (per isolate)	10.00 C, G
3)	Milk samples for mastitis evaluation per sample	4.00 C, G
4)	Leptospirosis culture per specimen	20.00 G
5)	Fluorescent Antibody Test (FA).....	15.00 C, G
6)	Campylobacter (culture).....	15.00 C, G
7)	Salmonella (enrichment media, per site or pool).....	10.00 C, G
	Salmonella, poultry-house drag swabs	45.00 G
	Salmonella enteritidis Test, Poultry	20.00 G
8)	Hemophilus (culture).....	8.00 C
9)	Bordetella culture	10.00 C, G
10)	Listeria (cold enrichment)	10.00 C, G
11)	Brachyspira (Swine Dysentery).....	12.50 C, G
12)	Johne's (MAP)	15.00 C, G
13)	Return culture for bacterin production per organism (plus shipping).....	4.00 C, G
14)	Mycology Culture.....	10.00 C, G
15)	Microscopic examination (brightfield, darkfield, outside normal procedures)	6.00 C, G
	Microscopic examination, acid-fast-stained smears.....	7.00 C, G
16)	Mycoplasma Culture	12.00 C, G

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17)	Trichomonas transport media	actual C, G cost plus shipping
18)	PCR testing	35.00 G
19)	Clostridium difficle toxin ELISA (per sample or pool).....	30.00 C, G
b)	Food safety microbiology	
1)	Culture, antibiotic residue growth inhibition.....	28.70 C
2)	Culture, bacterial, aerobic, quantitative.....	25.20 C
3)	Culture, bacterial, aerobic, quantitative, E. coli	25.20 C
4)	Culture, bacterial, anaerobic quantitative	25.20 C
5)	Culture, bacterial, Escherichia coli O157.....	25.20 C
6)	Enzyme-linked FA test, Escherichia coli O157	60.00 C
7)	Enzyme-linked FA test, Listeria.....	42.70 C
8)	Enzyme-linked FA test, Salmonella (HACCP).....	46.05 C
9)	Enzyme-linked FA test, staphylococcus enterotoxins	49.70 C
10)	Ready To Eat (RTE) products – 325 gm sample.....	83.30 C
c)	Water safety microbiology	
1)	Water Potability Test – Municipal – Total & Fecal coliform (includes new construction)	16.00
2)	Water Potability Test – Private – Nitrate, coliform, Enterococcus, Fecal coliform.....	16.00 C

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- 3) Water Bacterial ID Potability – Nitrate, coliform, Enterococcus, Fecal coliform and Bacti ID 20.00 C
- 4) Culture, aerobic quantitative, Enterococcus..... 7.00 C
- 5) Culture, aerobic, quantitative, Total coliforms 7.00 C
- 6) Standard Plate Count..... 10.00 C
- 7) Culture, bacterial, aerobic, quantitative, E. coli 7.00 C
- 8) Culture, bacterial, denitrifying bacteria, quantitative..... 13.00 C
- 9) Culture, bacterial, iron-reducing bacteria, quantitative 13.00 C
- 10) Culture, bacterial, nitrifying bacteria, quantitative 13.00 C
- 11) Culture, bacterial, sulfate-reducing bacteria, quantitative 13.00 C
- 12) Culture, viable Helminth ova 7.00 C
- 13) Free chlorine or total chlorine, colorimetric..... 7.00 C
- 14) Microscopic exam 6.00 C
- 15) Nitrate, colorimetric 7.00 C

d) Bacterial serology

- | 1) Brucella abortus (BAPA, card, std plate)..... ~~2.50-50~~ C, G, S
- | 2) Brucella abortus (std tube) ~~2.50-50~~ C, G
- | 3) Brucella canis card test 15.00 C, G
- | 4) Brucella abortus RAP ~~2.50N/C~~ G
- | 5) Brucella abortus rivanol ~~10.00N/C~~ C, G

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	6)	Brucella abortus (BAPA, card, std plate: out of state).....	1.00	C, G, S
	<u>67)</u>	Brucella abortus (species other than bovine, porcine and canine).....	<u>2.501.00</u>	C, G, S
	<u>78)</u>	Leptospirosis (microtiter agglutination, 6 serotypes, per sample) companion animals.....	24.00	C
	<u>89)</u>	Leptospirosis (microtiter agglutination, 6 serotypes, per sample) livestock (ruminants, swine)	12.00	C
	<u>940)</u>	Mycoplasma hypopneumoniae	4.00	G
	<u>1044)</u>	Mycoplasma synoviae, M. gallisepticum, M. meleagridis (not done separately).....	2.00	G
	<u>1142)</u>	Salmonella typhumurium.....	1.00	G
	<u>1243)</u>	Salmonella pullorum.....	1.00	G
	e)	Virology		
	1)	Electron Microscopy – fecal.....	20.00	G
	2)	Pseudorabies Serology (AutoLex or ELISA)	1.00	C, G
		Pseudorabies Serology Out-of-State.....	3.00	C, G
		Pseudorabies Serology end titer	3.00	C
		Pseudorabies Serology (request for screen at dilution of 1:2, SN).....	3.00	C
		Pseudorabies (Latex)	3.00	C
	3)	Fluorescent Antibody Test.....	15.00	C, G
	4)	Rabies	15.00	C, G

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5)	Disposal for rabies suspect carcass.....	.50 per pound	C, G
6)	Virus Isolation (per virus)	25.00	C, G
7)	Unlisted Viral Serology (each disease) per sample	5.00	C, G
8)	Feline SNAP Triple (Heartworm, FeLV, FIV).....	25.00	C
9)	Feline Infectious Peritonitis (F.I.P. cELISA)	22.00	C
10)	Canine parvovirus SNAP fecal.....	12.00	C
11)	PRRS (1:20, IFA)	4.00	C, G
	PRRS ELISA	6.00	C, G
	PRRS PCR.....	35.00	G
	PRRS IFA US strain.....	8.00	G
	PRRS IFA, Lelystad	8.00	G
	Swine influenza virus ELISA (per serotype)	8.00	
12)	Bovine virus diarrhea (BVD PI) immunohistochemistry (formalin fixed ear notches)	3.50	C, G
	Bovine virus diarrhea (BVD PI) Antigen Capture ELISA (serum or fresh ear notches)	5.00	C
13)	TGE/PRCV Differential ELISA (per specimen)	6.00	C, G
14)	RT-PCR Testing	35.00	G
f)	Miscellaneous serology		
1)	EIA-AGID.....	8.00	C, S

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	EIA-ELISA	10.00	C, S
2)	Bluetongue (AGID or ELISA).....	3.50	C
3)	Bovine leukemia virus (BLV-AGID)	5.00	C
	Bovine leukemia virus (BLV-ELISA)	5.00	C
4)	Vesicular stomatitis.....	5.00	C
5)	Johne's ELISA.....	5.00	C
6)	Johne's ELISA goats	6.00	C
7)	Ovine Progressive Pneumonia (OPP) AGID	5.00	C
8)	Caprine Arthritis Encephalitis (CAE AGID).....	5.00	C
	Caprine Arthritis Encephalitis (CAE ELISA).....	6.00	C
9)	Serology Spin Charge (per specimen)	1.00	C, G
10)	Anaplasmosis ELISA.....	7.00	C
11)	Blastomycosis AGID	10.00	C
12)	Neospora ELISA.....	7.00	C
13)	IgG levels (Bovine, Equine, Camelids)	12.00	C
14)	Enzootic Hemorrhagic Disease of deer (EHD AGID)	3.00	C

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.110 Proposed Action:
Amendment
- 4) Statutory Authority: Authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78 (a) (3) of that Act [230 ILCS 40/78 (a) (3)]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of the present rulemaking is to clarify the respective scope of the licenses for a "licensed terminal handler" and "licensed technician" under the Video Gaming Act [230 ILCS 40]. The definition of "licensed terminal handler" in Section 5 of the Act [230 ILCS 40/5] provides that this category of licensee shall have authority "to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal." "Inner workings" is not defined by the Act, but the most reasonable interpretation of this term is the innermost locked area of a video gaming terminal that houses electronic logic components that have the potential to significantly influence the operation of the video gaming terminal ("VGT"). As such, since a licensed terminal handler can "possess or control" a VGT and have access to the "inner workings" of a VGT, this category of licensee can take a broken VGT from a licensed location, transport it to an approved facility for repairs, and have access to all areas within the machine to effectuate the repair or replacement of parts. Alternatively, the licensed terminal handler can have access to the inner workings of the VGT and effectuate the repair within a licensed location.

In contrast, the definition of "licensed technician" in Section 5 of the Video Gaming Act provides that the functions of this category of licensee shall be limited to the "repair, service, and [maintenance of] video gaming terminals." Licensed technicians cannot "possess or control" a video gaming terminal (i.e., take a broken VGT to a repair facility), nor can they have access to the "inner workings" of a VGT. They can repair, service and maintain VGTs only outside of the innermost locked area of a VGT housing the electronic logic components that have the potential to significantly influence the operation of the VGT. These repairs and maintenance include refilling printer paper, repairing bill validators, resetting tilted machines, repairing video displays, etc.

The present rulemaking amends the definitions of "licensed terminal handler" and "licensed technician" contained in Section 1800.110, Definitions, to comply with the

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statutory meaning of these terms. As part of the revised definition of "licensed terminal handler", the rulemaking also establishes the meaning of the phrase "inner workings."

- 6) Published studies and reports, and underlying sources of 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) Do this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes
- | <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|------------------------------------|
| 1800.590 | New Section | 36 Ill. Reg. 4012; March 16, 2012 |
| 1800.1065 | New Section | 36 Ill. Reg. 4012; March 16, 2012 |
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Lynn J. Carter
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Fax No. 312/814-4143
lynn.carter@igb.illinois.gov

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

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda.

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Violations
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators
1800.260	Duties of Licensed Technicians
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

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SUBPART E: LICENSING PROCEDURES

Section

1800.510	Coverage of Subpart
1800.520	Applications
1800.530	Submission of Application
1800.540	Application Fees
1800.550	Consideration of Applications by the Board
1800.555	Withdrawal of Applications
1800.560	Issuance of License
1800.570	Renewal of License
1800.580	Renewal Fees and Dates

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610	Coverage of Subpart
1800.615	Requests for Hearing
1800.620	Appearances
1800.625	Appointment of Administrative Law Judge
1800.630	Discovery
1800.635	Subpoenas
1800.640	Motions for Summary Judgment
1800.650	Proceedings
1800.660	Evidence
1800.670	Prohibition on Ex Parte Communication
1800.680	Sanctions and Penalties
1800.690	Transmittal of Record and Recommendation to the Board
1800.695	Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710	Coverage of Subpart
1800.715	Notice of Proposed Disciplinary Action Against Licensees
1800.720	Hearings in Disciplinary Actions
1800.725	Appearances
1800.730	Appointment of Administrative Law Judge
1800.735	Discovery

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- 1800.740 Subpoenas
- 1800.745 Motions for Summary Judgment
- 1800.750 Proceedings
- 1800.760 Evidence
- 1800.770 Prohibition on Ex Parte Communication
- 1800.780 Sanctions and Penalties
- 1800.790 Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

- Section
- 1800.810 Location and Placement of Video Gaming Terminals

SUBPART I: SECURITY INTERESTS

- Section
- 1800.910 Approvals Required, Applicability, Scope of Approval
- 1800.920 Notice of Enforcement of a Security Interest
- 1800.930 Prior Registration

SUBPART J: TRANSPORTATION AND DISTRIBUTION
OF VIDEO GAMING TERMINALS

- Section
- 1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
- 1800.1020 Transportation of Video Gaming Terminals into the State
- 1800.1030 Receipt of Video Gaming Terminals in the State
- 1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
- 1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
- 1800.1060 Placement of Video Gaming Terminals
- 1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

- Section
- 1800.1110 State-Local Relations

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AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1800.110 Definitions

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

"Act": The Video Gaming Act [230 ILCS 40].

"Administrator": The chief executive officer responsible for day-to-day operations of the Illinois Gaming Board.

"Affiliate": An "affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Affiliated entity": An "affiliated entity" of a person is any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person.

"Applicant": A person applying for any license under the Video Gaming Act.

"Application": All material submitted, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, comprising the video gaming license application submitted to the Illinois Gaming Board.

"Associated video gaming equipment": Ticket payout systems and validation procedures; wireless, promotional and bonusing systems; kiosks; gaming-related

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peripherals; hardware, software and systems; and other gaming devices and equipment for compliance with:

Illinois laws, regulations, and requirements as codified or otherwise set forth; and

Board-approved video gaming industry standards.

"Attributed interest": A direct or indirect interest in an enterprise deemed to be held by an individual not through the individual's actual holdings but either through the holdings of the individual's relatives or through a third party or parties on behalf of the individual pursuant to a plan, arrangement, agreement or contract.

"Board": The Illinois Gaming Board.

"Business entity" or "Business": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chi-square test": A statistical test used to determine if a relationship between variables exists by comparing expected and observed cell frequencies. Specifically, a chi-square test examines the observed frequencies in a category and compares them to what would be expected by chance or would be expected if there was no relationship between variables.

"Control": The possession, direct or indirect, of power to direct or cause the direction of the management and policies of an applicant or licensee through the ownership of voting securities, by contract or otherwise.

"Convenience store": A retail store that is open long hours and sells motor fuel and a limited selection of snacks and general goods.

"Credit": One, five, 10 or 25 cents.

"Distributor": An individual, partnership, corporation or limited liability company licensed under the Act to buy, sell, lease or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

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"Enforce a security interest": To transfer possession of ownership or title pursuant to a security interest.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a game on a video gaming terminal.

"Fraternal organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(8) or (c)(10) of the Internal Revenue Code.

"Game": A gambling activity that is played for money, property or anything of value, including without limitation those played with cards, chips, tokens, vouchers, dice, implements, or electronic, electrical or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any game.

"Gaming operation": The conducting of gaming or the providing or servicing of gaming equipment.

"Gaming property collateral": Video gaming equipment subject to a security interest.

"Illinois resident":

With respect to an individual, an individual who is either:

domiciled in Illinois or maintains a bona fide place of abode in Illinois; or

is required to file an Illinois tax return during the taxable year.

With respect to a corporation, any corporation organized under the laws of this State and any foreign corporation with a certificate of authority to

ILLINOIS GAMING BOARD

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transact business in Illinois. A foreign corporation not authorized to transact business in this State is a nonresident of this State.

With respect to a partnership, a partnership in which any partner is an Illinois resident, or where the partnership has an office and is doing business in Illinois.

With respect to an irrevocable trust, a trust where the grantor was an Illinois resident individual at the time the trust became irrevocable.

"Institutional investor":

A retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees;

An investment company registered under section 8 of the Investment Company Act of 1940 (15 USC 80a-8);

A collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18);

A closed end investment trust registered with the United States Securities and Exchange Commission;

A chartered or licensed life insurance company or property and casualty insurance company;

A federal or state bank;

An investment advisor registered under the Investment Advisors Act of 1940 (15 USC 80b-1 through 80b-21); or

Such other person as the Illinois Gaming Board may determine for reasons consistent with the Act and this Part.

"License": Authorization granted by the Board permitting a licensee to engage in the defined activities of video gaming.

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"Licensed establishment": Any retail establishment licensed under the Act where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises. Licensed establishment does not include a facility operated by an organization licensee, an intertrack wagering licensee, or an intertrack wagering location licensee licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act.

"Licensed fraternal establishment": The location licensed under the Act where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed technician": An individual who is licensed under the Act to repair, service and maintain video gaming terminals. A licensed technician is not licensed under the Act to possess or control a video gaming terminal or have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal that houses electronic components that have the potential to significantly influence the operation of the video gaming terminal).

"Licensed terminal handler": A person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician or terminal operator, who is licensed under the Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal that houses electronic components that have the potential to significantly influence the operation of the video gaming terminal). A licensed terminal handler does not include an individual, partnership, corporation or limited liability company defined as a manufacturer, distributor, supplier, technician or terminal operator under Section 5 of the Video Gaming Act.

"Licensed truck stop establishment": A facility licensed under the Act that is at least a 3-acre facility with a convenience store, that has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and that has parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code [625 ILCS 5/18b-101]. The 10,000 gallon requirement may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

ILLINOIS GAMING BOARD

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"Licensed veterans establishment": The location licensed under the Act where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed video gaming location": A licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all as defined in Section 5 of the Video Gaming Act and this Part.

"Liquor license": A license issued by a governmental body authorizing the holder to sell and offer for sale at retail alcoholic liquor for use or consumption.

"Major components or parts": Components or parts that comprise the inner workings and peripherals of a video gaming terminal, including but not limited to the device's hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component that affects or could affect the result of a game played on the device.

"Manufacturer": An individual, partnership, corporation or limited liability company that is licensed under the Act and that manufactures or assembles video gaming terminals.

"Net terminal income": Money put into a video gaming terminal minus credits paid out to players.

"Nominee": Any individual or business entity that holds as owner of record the legal title to tangible or intangible personal or real property, including without limitation any stock, bond, debenture, note, investment contract or real estate on behalf of another individual or business entity, and as such is designated and authorized to act on his, her or its behalf with respect to the property.

"Ownership interest": Includes, but is not limited to, direct, indirect, beneficial or attributed interest, or holder of stock options, convertible debt, warrants or stock appreciation rights, or holder of any beneficial ownership or leasehold interest in a business entity.

"Person": Includes both individuals and business entities.

"Person with significant interest or control": Any of the following:

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Each person in whose name the liquor license is maintained for each licensed video gaming location;

Each person who, in the opinion of the Administrator, has the ability to influence or control the activities of the applicant or licensee, or elect a majority of its board of directors, other than a bank or licensed lending institution that holds a mortgage or other lien, or any other source of funds, acquired in the ordinary course of business;

Persons having the power to exercise significant influence or control over decisions concerning any part of the applicant's or licensee's video gaming operation.

"Secured party": A person who is a lender, seller or other person who holds a valid security interest.

"Security": An ownership right or creditor relationship.

"Security agreement": An agreement that creates or provides a security interest, including but not limited to a use agreement.

"Security interest": An interest in property that secures the payment or performance of an obligation or judgment.

"Sole proprietor": An individual who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.

"Substantial interest": With respect to a partnership, a corporation, an organization, an association, a business or a limited liability company means:

When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association or business, or any part thereof; or

When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

ILLINOIS GAMING BOARD

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When, with respect to a corporation, an individual or his or her spouse is an officer or director or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company; or

When, with respect to any other organization not covered in the preceding four paragraphs, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of, or otherwise controls, 10% or more of the assets of the organization; or

When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods or services, for the operation of any business, association or organization during any calendar year.

For purposes of this definition, "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this definition and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Terminal operator": An individual, partnership, corporation or limited liability company that is licensed under the Act that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments or licensed veterans establishments.

"Use agreement": A contractual agreement between a licensed terminal operator and a licensed video gaming location establishing terms and conditions for placement and operation of video gaming terminals by the licensed terminal operator within the premises of the licensed video gaming location.

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NOTICE OF PROPOSED AMENDMENT

"Veterans organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(19) of the Internal Revenue Code (26 USC 501(c)(19)).

"Video gaming equipment": Video gaming terminals, associated video gaming equipment and major components or parts.

"Video gaming operation": As the context requires, the conducting of video gaming and all related activities.

"Video gaming terminal": Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Claiming Races
- 2) Code Citation: 11 Ill. Adm. Code 510
- 3) Section Number: 510.260 Proposed Action:
New Section
- 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: This proposed rulemaking protects the owner for the time and money invested in bringing a horse back from a long layoff. The horse owner knows he can keep the horse for at least a second start before the possibility of the horse being claimed. An extended layoff for a lame, injured or fatigued horse gives it ample time to recover rather than an unscrupulous owner/trainer racing the horse back quickly at a reduced claiming price in hopes of passing his problems along to the next unsuspecting claimant.
- 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 AMENDMENT

Chicago, Illinois 60601

312/814-5017

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

The full text of the Proposed 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 c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510
CLAIMING RACES

Section	
510.10	Definition
510.20	Claiming Eligibility
510.30	Form and Deposit of Claim
510.40	Errors which Invalidate Claim
510.50	Refund of Voided Claim
510.60	Prohibited Action with Respect to Claim
510.70	Horses under Lien
510.80	Affidavit May be Required
510.90	Claimant's Responsibility
510.100	Claimed Horse's Certificate
510.110	Engagements of a Claimed Horse
510.120	Protests of a Claim
510.130	Title to a Claimed Horse
510.140	Distribution of the Purse
510.150	Delivery of a Claimed Horse
510.160	Trainer Responsibility for Post-Race Tests
510.170	Excusing Claimed Horse
510.180	Stable Eliminated by Fire or Other Hazard
510.190	Entering Claimed Horse (Repealed)
510.195	Determining Eligibility Dates
510.200	Claimed Horse Racing Elsewhere
510.210	Sale of a Claimed Horse
510.220	Illinois Rules Govern Claimed Horse
510.230	Extension of Regular Meeting (Repealed)
510.240	Claiming Authorization
510.250	Claiming Price
<u>510.260</u>	<u>Option to Declare Horse Ineligible to be Claimed</u>

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 5 Ill. Reg. 1686, effective February 16, 1981; amended at 5 Ill. Reg. 8300, effective August 5, 1981; codified at 5 Ill. Reg. 10911; amended at 7 Ill. Reg. 2167, effective February 4, 1983; amended at 7 Ill. Reg. 3197, effective March 14, 1983; amended at 8 Ill. Reg. 14992, effective August 6, 1984; amended at 14 Ill. Reg. 17636, effective October 16, 1990; amended at 17 Ill. Reg. 12423, effective July 15, 1993; amended at 17 Ill. Reg. 13612, effective July 30, 1993; amended at 18 Ill. Reg. 2064, effective January 21, 1994; amended at 18 Ill. Reg. 11607, effective July 7, 1994; amended at 19 Ill. Reg. 13887, effective October 1, 1995; amended at 20 Ill. Reg. 12473, effective September 1, 1996; amended at 21 Ill. Reg. 951, effective January 7, 1997; amended at 24 Ill. Reg. 7386, effective May 1, 2000; amended at 24 Ill. Reg. 12722, effective August 1, 2000; amended at 24 Ill. Reg. 17480, effective November 8, 2000; amended at 25 Ill. Reg. 6393, effective May 1, 2001; amended at 25 Ill. Reg. 8814, effective July 1, 2001; amended at 27 Ill. Reg. 533, effective January 1, 2003; amended at 31 Ill. Reg. 15094, effective November 1, 2007; amended at 32 Ill. Reg. 10161, effective July 1, 2008; amended at 33 Ill. Reg. 11318, effective July 21, 2009; amended at 36 Ill. Reg. _____, effective _____.

Section 510.260 Option to Declare Horse Ineligible to be Claimed

At the time of entry into a claiming race, the owner, or the trainer acting under authorization from the owner, may opt to declare a horse ineligible to be claimed provided that:

- a) the horse has not been an official starter in a race at any racetrack for a minimum of 120 days since its last race as an official starter;
- b) the horse's last race as an official starter was a claiming race in which the horse was eligible to be claimed;
- c) the horse is entered for a claiming price equal to or greater than the claiming price at which it last started as an official starter;
- d) failure to declare the horse ineligible at the time of entry may not be remedied;
and
- e) ineligibility to be claimed shall only apply to the first start as an official starter following each 120-day or longer layoff.

(Source: Added at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) Section Number: 603.60 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: This proposed rulemaking lowers the threshold level for phenylbutazone from 5 micrograms to 2 micrograms per milliliter of serum or plasma for graded stakes races, pursuant to TOBA's American Graded Stakes Committee drug testing protocol. Penalties for overages are also proposed pursuant to the RCI model rules. Compliance with the protocol is a condition of a graded thoroughbred race maintaining its eligibility for grading. The grade of the race may be revoked if the Thoroughbred Owners and Breeders Association determines the revised protocol was not followed and the integrity of the race was compromised.
- 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? Yes
- 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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

The full text of the Proposed Amendment is identical to that of the text of the Emergency Amendment for this Part that begins on page 6057:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Weights, Penalties, and Allowances; Scale of Weights for Age
- 2) Code Citation: 11 Ill. Adm. Code 1412
- 3) Section Number: 1412.10 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: This proposed rulemaking repeals the current weight allowances, adopted in 1981, which are outdated and no longer used by Racing Secretaries across the country. The Kentucky Horse Racing Commission and the West Virginia Racing Commission have adopted this RCI model rule. The proposal is currently under review in Indiana and California. The Jockeys' Guild is seeking this amendment because jockeys today are larger than jockeys of the past and establishing a minimum weight for jockeys at 118 pounds (currently 116 pounds in Illinois), but allowing for certain weight allowances, is the best solution to speed adoption of the model rule and eliminate most of the weights that are negatively affecting riders' health and safety.
- 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

NOTICE OF PROPOSED AMENDMENT

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

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 1412

WEIGHTS, PENALTIES, AND ALLOWANCES; SCALE OF WEIGHTS FOR AGE

Section

1412.10	Weight Allowances
1412.20	Extra Allowances
1412.30	When Readjustments Allowed
1412.40	Readjustments, When Claimed
1412.50	Penalties and Allowances Not Cumulative
1412.60	Handicaps

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

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); codified at 5 Ill. Reg. 10980; amended at 36 Ill. Reg. _____, effective _____.

Section 1412.10 Weight Allowances

- a) With the exception of apprentices allowances, handicap races, three-year-old horses entered to run in races against horses four years old and upwards, and the allowance provided in subsection (b) of this Section, no jockey shall be assigned a weight of less than 118 pounds. For three-year-old horses entered to run in races against horses four years old and upwards from January 1 through August 31, no jockey shall be assigned a weight of less than 116 pounds.
- b) Except in handicaps, fillies two years old shall be allowed 3 pounds and fillies and mares three years old and upward shall be allowed 5 pounds before September 1, and 3 pounds after September 1 in races in which they compete against horses of the opposite sex.

ILLINOIS RACING BOARD

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3	98	104	108	111	114	117	119	121	122
4	124	126	126	126	126	126	126	126	126
5 & up	126	126	126	126	126	126	126	126	126

TWO MILES

3	96	102	106	109	112	114	117	119	120
4	124	126	126	126	126	125	125	124	124
5 & up	126	126	126	126	126	125	125	124	124

- b) ~~In races of intermediate lengths, the weights for the shorter distance are carried.~~
- e) ~~In races exclusively for three year olds, or four year olds, the weight is 126 pounds and in races exclusively for two year olds, it is 122 pounds.~~
- d) ~~In all races except handicaps and races where the conditions expressly state to the contrary, fillies two years old are allowed three pounds, and mares three years old and upward are allowed five pounds before the first of September and three pounds afterwards.~~
- e) ~~In all overnight races for two year olds or three year olds or for four year olds and upward, the minimum weight shall be 112 pounds subject to sex and apprentice allowances. This rule shall not apply to handicaps nor to races for three year olds and upward.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulations for Meetings
- 2) Code Citation: 11 Ill. Adm. Code 1424
- 3) Section Number: 1424.370 Proposed Action:
New Section
- 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: This proposed rulemaking requires thoroughbred racetracks to post a summary of their on-track accident insurance coverage for jockeys and make available, upon request, a copy of the policy.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 1424
REGULATIONS FOR MEETINGS
(THOROUGHBRED)

Section

1424.10	Illinois Racing Board Right of Entry
1424.20	Office for Racing Board
1424.25	Moving Offices (Repealed)
1424.40	Inspections and Searches (Repealed)
1424.45	Investigative Authority
1424.50	Allocation of Stalls
1424.55	AGID (Coggins) Test (Repealed)
1424.60	Distance Poles
1424.70	Arrivals, Departures and Stabling
1424.80	Departure Slips
1424.90	Horse Ambulance
1424.100	Races Per Day (Repealed)
1424.110	Extra Races
1424.120	Clockers
1424.125	Outriders
1424.140	Safety Rails
1424.150	Backstretch Paging System
1424.160	Camera
1424.170	Emergency Medical Services
1424.175	Manned Ambulance (Repealed)
1424.180	Policing of Premises
1424.190	Stable Area Security
1424.200	Stable Area Security
1424.210	Security Reports
1424.220	Night Patrol
1424.230	Telephones
1424.240	Calls Through Switchboard (Repealed)
1424.250	Races for Illinois Horses

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1424.260	Breeder Awards
1424.270	Admission to Parts of Premises
1424.280	Stable Areas Fenced
1424.290	Merchandise Selling
1424.300	Tip Sheets
1424.310	Alcoholic Beverages
1424.320	Jockey Quarters
1424.330	Water Supply and Washrooms
1424.340	Drug Vendors
1424.350	Seven Day Rule
1424.353	Penalty for Violation of Rules
1424.355	Stall Availability Prior to Meet
1424.360	Notification of Change
<u>1424.370</u>	<u>Posting of Jockey Accident Insurance Coverage</u>

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

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); added October 25, 1973, filed November 26, 1973; added August 8, 1973; amended February 15, 1974, filed February 28, 1974; amended April 11, 1974, filed April 30, 1974; amended July 12, 1974, filed July 22, 1974; amended October 25, 1974, filed November 7, 1974; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended June 19, 1976, filed June 25, 1976; amended December 9, 1977, filed December 29, 1977; amended at 4 Ill. Reg. 41, p. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10996; amended at 8 Ill. Reg. 12460, effective June 27, 1984; amended at 9 Ill. Reg. 9166, effective May 30, 1985; amended at 14 Ill. Reg. 20545, effective December 7, 1990; amended at 16 Ill. Reg. 7493, effective April 24, 1992; amended at 16 Ill. Reg. 11193, effective June 25, 1992; amended at 17 Ill. Reg. 3038, effective February 23, 1993; emergency amendment at 23 Ill. Reg. 7779, effective June 28, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13943, effective November 2, 1999; amended at 28 Ill. Reg. 6605, effective April 19, 2004; amended at 31 Ill. Reg. 16536, effective December 1, 2007; amended at 32 Ill. Reg. 16502, effective October 1, 2008; amended at 36 Ill. Reg. _____, effective _____.

Section 1424.370 Posting of Jockey Accident Insurance Coverage

- a) Each organization licensee shall have on file with the Board, a copy of the actual insurance policy and shall post in the jockeys' room, a summary of the licensee's on-track insurance coverage for jockeys who are injured while acting in the

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performance of their duties as a jockey on the grounds of the licensee. Upon request, the licensee shall provide a copy of the insurance policy to any licensed jockey participating in the race meeting. Requests shall be made in writing to the licensee's General Manager.

- b) In the event the insurance policy is changed during a race meeting, the licensee shall promptly post notice in the jockeys' room of any changes.

(Source: Added at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Electronic Transmission of Fingerprints
- 2) Code Citation: 20 Ill. Adm. Code 1265
- 3) Section Number: 1265.30 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 3 and 3.1 of the Criminal Identification Act [20 ILCS 2630/3 and 3.1] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will update procedures used by noncriminal justice agencies and other entities in conducting fingerprint-based criminal history background investigations of prospective employees or licensees to require submission of a photograph of the individual being fingerprinted.
- 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) Do 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: These amendments as defined will require any criminal justice or non-criminal justice entity submitting electronic fee applicant submissions to the Department of State Police for the purpose of requesting a criminal history record information check to include a digital photograph. This photograph requirement may necessitate additional expenditures by said entities in order to capture and transmit the required photograph in the electronic format required by these amendments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person

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may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:

Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield, Illinois 62703

Telephone: 217/782-7658

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any criminal justice or non-criminal justice entity submitting an electronic fee applicant submission to the Department of State Police for the purpose of requesting a criminal history record information check will be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: Beginning January 1, 2014, all electronic fee applicant submissions forwarded to Department of State Police for the purpose of requesting criminal history record information will require the submission of an electronic digital photograph. This photograph must be submitted with photographic equipment compatible with the submitting agencies livescan equipment and must be submitted in the American National Standard for Information System - data format for the Interchange of Fingerprint Information (*ANSI/NIST*) format required by the Department of State Police and the Federal Bureau of Investigation.
 - C) Types of professional skills necessary for compliance: These amendments will require the technical expertise to submit an electronic digital photograph utilizing livescan equipment and must be submitted in the American National Standard for Information System - data format for the Interchange of Fingerprint Information (*ANSI/NIST*) format required by the Department of State Police and the Federal Bureau of Investigation.
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Department was not aware these amendments needed to be made until recently. The amendments are being

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proposed as a result of a rulemaking filed by the Department of Financial and Professional Regulation and a subsequent recommendation by the Joint Committee on Administrative Rules.

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

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENT

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

PART 1265
ELECTRONIC TRANSMISSION OF FINGERPRINTS

SUBPART A: PROMULGATION

Section	
1265.10	Purpose
1265.20	Definitions

SUBPART B: OPERATIONS

Section	
1265.30	Requirements

AUTHORITY: Implementing and authorized by Sections 3 and 3.1 of the Criminal Identification Act [20 ILCS 2630/3 and 3.1] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 21 Ill. Reg. 1210, effective January 10, 1997; amended at 36 Ill. Reg. _____, effective _____.

SUBPART B: OPERATIONS

Section 1265.30 Requirements

- a) Fingerprint images, a photograph (as of January 1, 2014) of the individual being fingerprinted, and related alpha numeric identification data submitted to the Department for the purpose of the fee applicant process shall be submitted by means of electronic transmission.
- b) Electronic transmission of fingerprint data to the Department shall be accomplished utilizing liveness procedures or other comparable technology approved for use by the Department.

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- c) Electronic transmission of data and a photograph of the individual being fingerprinted are required for all fee applicant process inquiries to the Department and all fee applicant process inquiries made to the FBI through the Department. The effective date of the photograph requirement is January 1, 2014.
- d) In the event of equipment malfunction or other special circumstance that which makes electronic transmission of fingerprint data impractical, the Department may allow limited use of paper fingerprint records for fee applicant submissions.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
390.1010	Amend
390.1020	Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]; and authorized by Title IV – Motor Carrier Safety Reauthorization Act of 2005, Sections 4130 and 4132 of Subtitle A – Commercial Motor Vehicle Safety, of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA – LU) (PL 109-59)
- 5) A complete description of the subjects and issues involved: This rulemaking is being promulgated to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs) used in intrastate transportation. This action is a result of the Federal Motor Carrier Safety Administration's (FMCSA) final rule that was published in the Federal Register at 76 FR 75470 on December 2, 2011, effective January 3, 2012. The FMCSA regulates interstate transportation only, which requires the Department to promulgate this rulemaking to restrict the use of hand-held mobile telephones by drivers of CMVs in intrastate transportation.

This rulemaking will improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs. The public interest and welfare are at stake due to the seriousness of driver distraction, especially by drivers of CMVs. Driver distraction can be defined as the voluntary or involuntary diversion of attention from primary driving tasks due to an object, event or person. Researchers classify distraction into several categories: visual, manual, cognitive and auditory. Research shows that using a hand-held mobile telephone while driving may pose a higher safety risk than other activities because it involves all four types of driver distraction. Using a hand-held mobile telephone may reduce a driver's situational awareness, decision making or performance; and it may result in a crash, near-crash, unintended lane departure by the driver, or other unsafe driving action. The FMCSA's final rule of December 2, 2011 allows the driver operating a CMV to use a hands free mobile telephone to conduct voice communication. The FMCSA's final rule also provides for an emergency exception when it is necessary for the driver of a CMV to communicate with law enforcement officials or other emergency services.

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In addition to drivers of CMVs, the FMCSA's new restriction for hand-held mobile telephones applies to school buses and vehicles designed to transport between 9 and 15 passengers (including the driver) and not for direct compensation. The Department is applying the hand-held mobile telephone restriction to school bus drivers who operate school buses solely in intrastate transportation. 625 ILCS 5/12-813.1 currently prohibits school bus drivers from operating a school bus while using a cellular radio telecommunication device, defined as a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually (some exceptions apply). However, with the applicability of the FMCSA's final rule, school bus drivers will also be subject to federal penalties and disqualifications if they fail to comply with the hand-held mobile telephone restriction. Additionally, for consistency with the FMCSA's final rule, the Department is also applying this hand-held mobile telephone restriction to drivers of intrastate vehicles designed to transport between 9 and 15 passengers (including the driver), not for direct compensation.

The subject of texting by drivers of commercial motor vehicles is not addressed in this rulemaking because 625 ILCS 5/12-610.2 prohibits a person from operating a motor vehicle on a roadway in Illinois while using an electronic communication device to compose, send or read an electronic message. In the near future, the Department will promulgate a general rulemaking to address penalties and disqualifications for drivers of commercial motor vehicles who fail to comply with the texting prohibition.

The Department determined that this change is in the best interest and welfare of the State to improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs in intrastate transportation and in response to the FMCSA's final rule, which became effective on January 3, 2012.

- 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

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- 11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be directed to:

Ms. Cathy Allen
Illinois Department of Transportation
Division of Traffic Safety
1340 North 9th Street
Springfield, Illinois 62702

217/785-3031

JCAR requests, comments and concerns regarding this rulemaking shall be directed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles and those small businesses that own or operate intrastate vehicles designed to transport between 9 and 15 passengers (including the driver), not for direct compensation.
- B) Reporting, bookkeeping or other procedures required for compliance: No new reporting requirements are necessary for compliance with this rulemaking.

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- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in the Department's last two Regulatory Agendas because the Department could not anticipate the timing of the need for these amendments.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390

MOTOR CARRIER SAFETY REGULATIONS: GENERAL

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section

390.1000	Purpose
390.1010	General Applicability
390.1020	Definitions
390.1030	Rules of Construction

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section

390.2000	Incorporation by Reference
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AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]; and authorized by Title IV – Motor Carrier Safety Reauthorization Act of 2005, Sections 4130 and 4132 of Subtitle A – Commercial Motor Vehicle Safety, of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA – LU) (P.L. 109-59).

SOURCE: Adopted at 14 Ill. Reg. 15519, effective September 10, 1990; amended at 15 Ill. Reg. 13171, effective August 21, 1991; amended at 16 Ill. Reg. 14435, effective September 8, 1992; amended at 18 Ill. Reg. 754, effective January 11, 1994; amended at 18 Ill. Reg. 10362, effective June 15, 1994; amended at 19 Ill. Reg. 13050, effective August 30, 1995; amended at 20 Ill. Reg. 15344, effective November 18, 1996; amended at 23 Ill. Reg. 5105, effective March 31, 1999; amended at 24 Ill. Reg. 1954, effective January 19, 2000; amended at 25 Ill. Reg. 2100, effective January 17, 2001; amended at 26 Ill. Reg. 8978, effective June 5, 2002; amended at 26 Ill. Reg. 12749, effective August 12, 2002; amended at 27 Ill. Reg. 9218, effective June 2, 2003; amended at 28 Ill. Reg. 1152, effective January 4, 2004; emergency amendment at 28 Ill. Reg. 12479, effective August 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15636, effective November 19, 2004; amended at 29 Ill. Reg. 19227, effective November 10, 2005; amended at 30 Ill. Reg. 5637, effective March 8, 2006; amended at 32 Ill. Reg. 10397, effective June 25, 2008; amended at 36 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1010 General Applicability

- a) All Parts of the IMCSR except for "Transportation of Hazardous Materials; Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:

Persons employing drivers, drivers and commercial motor vehicles which transport property or passengers in interstate or intrastate commerce.
(Section 18b-106 of the Law)
- b) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- c) The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation in Illinois of hazardous materials by a farmer when in approved containers and in the amounts and manner specified in 92 Ill. Adm. Code 171.22, Agricultural Exception.
- d) Nothing in the IMCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.
- e) The IMCSR requires knowledge of and compliance with the following:
 - 1) Every employer shall be knowledgeable of and comply with all requirements contained in the IMCSR which are applicable to that motor carrier's operations.
 - 2) Every driver and employee shall comply with all applicable requirements

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contained in the IMCSR and shall be instructed accordingly.

- 3) All motor vehicles' equipment and accessories required by the IMCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the IMCSR.
- f) Except for provisions in Section 13-101 of the Illinois Vehicle Code [625 ILCS 5/13-101] or unless otherwise specifically provided, the requirements in the IMCSR do not apply to:
 - 1) All school bus operations as defined in Section 390.1020 of this Part [except for the provisions of 49 CFR 391.15\(f\) and 49 CFR 392.82](#);
 - 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States;
 - 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
 - 4) The transportation of human corpses or sick and injured persons;
 - 5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations.
 - 6) [The operation of vehicles designed or used to transport between 9 and 15 passengers \(including the driver\), not for direct compensation, provided the vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers and drivers operating these vehicles are required to comply with 49 CFR 391.15\(f\) and 49 CFR 392.82.](#)

[AGENCY NOTE: "Not for direct compensation" means no direct payment is made to the carrier by the passengers or any person acting on behalf of the passengers for the transportation services provided.](#)

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- g) The following parts apply to motor carriers and vehicles that transport certain types and quantities of hazardous materials in intrastate commerce (see 49 CFR 385.403 for the list of types and quantities):
- 1) 49 CFR 385, Safety Fitness Procedures, for carriers subject to the requirements of 49 CFR 385.403;
 - 2) 49 CFR 386, Procedures and Enforcement;
 - 3) 49 CFR 387, Minimum Levels of Financial Responsibility for Motor Carriers, to the extent provided in 49 CFR 387.3; and
 - 4) 49 CFR 390.19, Motor carrier identification report, and 49 CFR 390.21, Marking of CMVs, for carriers subject to the requirements of 49 CFR 385.403. Intrastate motor carriers operating prior to January 1, 2005 are excepted from 49 CFR 390.19(a)(1).

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from the IMCSR for intrastate public utility commercial motor vehicles.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 390.1020 Definitions

The following definitions apply to all Parts in the IMCSR unless a specific Part expressly defines a term differently:

"Accident" means:

Except as provided below, an occurrence involving a commercial motor vehicle operating on a highway that results in:

A fatality;

Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

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One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include:

An occurrence involving only boarding and alighting from a stationary motor vehicle; or

An occurrence involving only the loading or unloading of cargo. (49 CFR 390.5, October 1, 2006)

"Agricultural commodities" means any agricultural commodity, non-processed food, feed, fiber, or livestock, including insects. (Section 18b-101 of the Law)

"Agricultural operations" means the operation of a motor vehicle or combination of vehicles transporting agricultural commodities or farm supplies for agricultural purposes. (Section 18b-101 of the Law)

"Air mile" means a nautical mile, which is equivalent to 6,076 feet or 1,852 meters. Accordingly, 100 air miles are equivalent to 115.08 statute miles or 185.2 kilometers. (Section 18b-101 of the Law)

"Alcohol concentration" or "AC" means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. (49 CFR 390.5, October 1, 2006)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 2006)

"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to, hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (Section 1-108 of the Code)

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"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, 2006)

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

"Commerce" means trade, commerce or transportation within the State. (Section 1-111.4 of the Code)

"Commercial motor vehicle" or "CMV" means:

Any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight, a gross vehicle weight rating, a gross combination weight, or a gross combination weight rating of 10,001 or more pounds (4,537 or more kilograms); or

The vehicle is used or designed to transport more than 15 passengers, including the driver; or

The vehicle is designed to carry 15 or fewer passengers and is operated by a contract carrier transporting employees in the course of their employment on a highway of this State; or

The vehicle is used or designed to transport between 9 and 15 passengers, including the driver, for direct compensation, if the vehicle is being operated beyond a radius of 75 air miles (86.3 statute miles or 138.9 kilometers) from the driver's normal work reporting location; or

The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act.

This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 of the Code nor implements of husbandry as defined in Section 1-130 of the Code. (Section 18b-101 of the Law)

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"Commercial Vehicle Inspections" means:

Level 1 – North American Standard Inspection: An inspection that includes each of the items specified under the North American Uniform Out-of-Service Criteria.

As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours-of-service, seat belt, vehicle inspection report, brake system, steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield wipers, lighting devices, safe loading, and hazardous material requirements as applicable.

Level 2 – Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours-of-service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securement, low air warning device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 – Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours-of-service, seat belt, and vehicle inspection report.

Level 4 – Special Inspections: Inspections under this heading typically include a one-time examination of a particular item. These examinations are normally made in support of a study or to verify or refute a suspected trend.

Level 5 – Vehicle-Only Inspection: An inspection that includes each of the vehicle inspection items specified under the North American Standard

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Inspection (Level 1), without a driver present, conducted at any location.

(Commercial Vehicle Safety Alliance (CVSA), CVSA Operations Manual, January 1996)

"Commercial Vehicle Safety Alliance" or "CVSA" means the association of state/territory (United States), provincial/territory (Canada), and federal (Mexico) officials responsible for the administration and enforcement of motor carrier safety and hazardous materials laws in the United States, Canada and Mexico working together with the federal governments and industry to improve commercial vehicle safety. (CVSA Operations Manual, January 1996)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 2006)

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents. (Section 1-115.05 of the Code)

"Direct assistance" means transportation and other relief services provided by a motor carrier or its drivers incident to the immediate restoration of essential services (such as electricity, ~~medical~~ medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, 2006)

"Direct compensation" means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services. (Section 18b-101 of the Law)

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"Disabling damage" means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions:

Damage that can be remedied temporarily at the scene of the accident without special tools or parts.

Tire disablement without other damage even if no spare tire is available.

Headlamp or taillight damage.

Damage to turn signals, horn or windshield wipers that makes them inoperative. (49 CFR 390.5, October 1, 2006)

"Distribution point" means the point, for for-hire motor carriers, where the bill of lading originates for the farm supply being transported. For not-for-hire motor carriers, the distribution point means the original loading point for the farm supply.

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of Table 1 to "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 2006)

"Driveaway-towaway operation" means any operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

Between a vehicle manufacturer's facilities;

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Between a vehicle manufacturer and a dealership or purchaser;

Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;

To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in this Section 390.1020) following a crash; or

To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or

By means of a saddle-mount or tow-bar. (49 CFR 390.5, October 1, 2006)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 2006)

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, that interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a state, or their authorized representatives having authority to declare emergencies; by the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other federal, State or local government officials having authority to declare emergencies, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his or her designee; or

A request by a police officer for tow trucks to move wrecked or disabled motor vehicles. (49 CFR 390.5, October 1, 2006)

"Emergency relief" means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and

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local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, 2006)

"Employee" means:

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 2006)

"Employer" means any person engaged in a business affecting interstate or intrastate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Federal Motor Carrier Safety Administration (FMCSA) in 49 CFR 372, subpart B. The descriptions are printed in appendix F to the Federal Motor Carrier Safety Regulations. A driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 2006)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 USC 13506. "Exempt motor carriers" are subject to the

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requirements set forth in the Illinois Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 2006)

"Farm machinery" – see definition of "Special agricultural movement equipment" in this Section.

"Farm supplies for agricultural purposes" means products directly related to the growing or harvesting of agricultural commodities and livestock feed at any time of the year. (Section 18b-101 of the Law)

"Farm to market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to or from a farm operated by the farmer; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act [430 ILCS 30]. (Section 1-119.6 of the Code)

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is –

Controlled and operated by a farmer as a private motor carrier of property;

Being used to transport either –

Agricultural products, or

Farm machinery, farm supplies, or both, to or from a farm;

Not being used in the operation of a for-hire motor carrier;

Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with 49 CFR 177.823; and

Being used within 150 air-miles of the farmer's farm. (49 CFR 390.5, October 1, 2006)

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"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock that:

Are owned by that person; or

Are under the direct control of that person. (49 CFR 390.5, October 1, 2006)

"Fatality" means any injury that results in the death of a person at the time of the motor vehicle accident or within 30 days after the accident. (49 CFR 390.5, October 1, 2006)

"Federal Motor Carrier Safety Administrator" means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 2006)

"FMCSA Field Administrator" means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States. (49 CFR 390.5, October 1, 2006)

"For-hire" means the operation of a vehicle for compensation and subject to federal regulation by the Interstate Commerce Commission or to State regulation by the Illinois Commerce Commission and those vehicles governed by Chapters 8 and 9 under the Code and regulated by the Secretary of State. (Section 1-122.5 of the Code)

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 2006)

"Gross Combination Weight Rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 2006)

"Gross Vehicle Weight Rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single motor vehicle. (49 CFR 390.5, October 1, 2006)

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"Hazardous material" means a substance or material that has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and that has been so designated. (49 CFR 390.5, October 1, 2006)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in appendix A to 49 CFR 172.101, List of Hazardous Substances and Reportable Quantities when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in appendix A to 49 CFR 172.101. (49 CFR 390.5, October 1, 2006)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" (40 CFR 123), subpart F. (49 CFR 390.5, October 1, 2006)

"Highway" means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates. (49 CFR 390.5, October 1, 2006)

"Illinois Motor Carrier Safety Regulations" or "IMCSR" means the requirements established in Parts 340, 380, 382, 383, 385, 386, 387, 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code: Chapter I, Subchapter d).

"Illinois State Police" means any individual officer of the Illinois State Police.

"Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm

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wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds, shall be included hereunder. (Section 1-130 of the Code)

"Interstate commerce" means transportation between two or more states or transportation originating in one state and passing into or through other states for delivery in another state. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois that is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 2006)

"Law" means the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

"Livestock" means cattle, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of the United States Department of Transportation (at his or her sole discretion) that are part of a foundation herd (including producing dairy cattle) or offspring. (Section 18b-101 of the Law)

"Medical Examiner" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. In Illinois, the term includes doctors of medicine, doctors of osteopathy, doctors of chiropractic, physician assistants who have been delegated the performance of medical examinations by his/her supervising physician, and advanced practice nurses who have a written collaborative agreement with a collaborating physician that authorizes him/her to perform physical examinations.

["Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It does not include two-way or Citizens Band Radio services.](#)

"Motor carrier" means a for-hire motor carrier or a private motor carrier. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of

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the IMCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 2006)

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 2006)

"Multiple-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. (49 CFR 390.5, October 1, 2006)

"North American Uniform Out-Of-Service Criteria" means a set of guidelines established by the CVSA and recognized by all states, the provinces of Canada, and Mexico as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load out-of-service. The criteria is enforced, in some states, by qualified law enforcement officers of a municipality, county, state or the federal government. In Illinois, only qualified officers of the Illinois State Police and the federal government have authority to enforce the out-of-service criteria.

"Operator" – see driver.

"Other terms" – any other term used in the IMCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the IMCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 2006)

"Out-of-service order" means a declaration by the Illinois State Police or by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or 92 Ill. Adm. Code 392.2000(d), or compatible laws, or the North American Uniform Out-of-Service Criteria as defined in this Section.

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"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns. (Section 18b-101 of the Law)

"Planting and harvesting season" means the period of January 1 through December 31 each year.

"Previous employer" means any USDOT or Department regulated person who employed the driver in the preceding 3 years, including any possible current employer.

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, for purposes of identification under this Subchapter d. The motor carrier must make records required by 49 CFR 382 and 49 CFR 387, as well as Parts 390, 391, 395, 396, and 397 of this Subchapter d, available for inspection at this location within 48 hours (Saturdays, Sundays, and federal or State holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration or the Illinois Department of Transportation. (49 CFR 390.5, October 1, 2006)

"Private motor carrier" means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier. (49 CFR 390.5, October 1, 2006)

"Private motor carrier of passengers (business)" means a private motor carrier engaged in the interstate or intrastate transportation of passengers that is provided in the furtherance of a commercial enterprise and is not available to the public at large. (49 CFR 390.5, October 1, 2006)

"Private motor carrier of passengers (nonbusiness)" means a private motor carrier involved in the interstate or intrastate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5, October 1, 2006)

"Radar detector" means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor

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vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the driver's compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle. (49 CFR 390.5, October 1, 2006)

"Residential district" means the territory adjacent to and including a highway that is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 2006)

"Safety permit" means a document issued by the Federal Motor Carrier Safety Administration that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. (49 CFR 385.402, October 1, 2006)

"School bus" means a motor vehicle that meets all of the special requirements for school buses in Sections 12-801, 12-802, 12-803 and 12-805 of the Code and is designed or used to carry more than 10 passengers, including the driver, and is used for transporting preprimary, primary or secondary school students from home to school or from school to home or for intrastate school sanctioned functions.

"School bus operation" means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home and for intrastate school sanctioned functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Single-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis. (49 CFR 390.5, October 1, 2006)

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"Special agent" – See 49 CFR appendix B to subchapter B of chapter III.

"Special agricultural movement equipment" means a vehicle of the second division having a corn sheller, a welldriller, hay press, clover huller, feed mixer and unloader or other farm machinery permanently mounted thereon and used solely for transporting the same, farm wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and farm wagon type tank trailers (i.e., nurse tanks) not to exceed 3,000 gallon capacity. Also includes any single unit self-propelled agricultural fertilizer implement, designed for both on and off road use, equipped with flotation tires and otherwise especially adapted for the application of plant food materials or agricultural chemicals. (Section 3-809 of the Code)

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 2006)

"State" also means the State of Illinois.

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer that is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 2006)

"Pole trailer" means any motor vehicle that is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 2006)

"Semitrailer" means any motor vehicle, other than a pole trailer, that is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle. (49 CFR 390.5, October 1, 2006)

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"Truck" means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property. (49 CFR 390.5, October 1, 2006)

"Truck tractor" means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 2006)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 2006)

"USDOT" means the United States Department of Transportation.

"Use a hand-held mobile telephone" means:

Using at least one hand to hold a mobile telephone to conduct a voice communication;

Dialing or answering a mobile telephone by pressing more than a single button; or

Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

"Utility service vehicle" means any commercial motor vehicle:

Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

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Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility. (49 CFR 395.2, October 1, 2006)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3)

<u>Section Number:</u> 391.2000	<u>Proposed Action:</u> Amend
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- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) A complete description of the subjects and issues involved: This rulemaking is being promulgated to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs) used in intrastate transportation. This action is a result of the Federal Motor Carrier Safety Administration's (FMCSA) final rule that was published in the Federal Register at 76 FR 75470 on December 2, 2011, effective January 3, 2012 and a subsequent correction that was published at 77 FR 1889 on January 12, 2012. The FMCSA rule regulates interstate transportation only, which requires the Department to promulgate this rulemaking to restrict the use of hand-held mobile telephones by drivers of CMVs in intrastate transportation.

This rulemaking will improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs. The public interest and welfare are at stake due to the seriousness of driver distraction, especially by drivers of CMVs. Driver distraction can be defined as the voluntary or involuntary diversion of attention from primary driving tasks due to an object, event or person. Researchers classify distraction into several categories: visual, manual, cognitive and auditory. Research shows that using a hand-held mobile telephone while driving may pose a higher safety risk than other activities because it involves all four types of driver distraction. Using a hand-held mobile telephone may reduce a driver's situational awareness, decision making or performance; and it may result in a crash, near-crash, unintended lane departure by the driver, or other unsafe driving action. The FMCSA's final rule of December 2, 2011 allows the driver operating a CMV to use a hands free mobile telephone to conduct voice communication. The FMCSA's final rule also provides for an emergency exception when it is necessary for the driver of a CMV to communicate with law enforcement officials or other emergency services.

In addition to drivers of CMVs, the FMCSA's new restriction for hand-held mobile telephones applies to farm custom operations, apiarian industries (i.e., beekeeping) and certain farm vehicle drivers. The Department is also applying this hand-held mobile

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telephone restriction to drivers who are employed in these industries and who operate solely in intrastate transportation. With the applicability of the FMCSA's final rule, drivers who are employed in these industries will be subject to federal penalties and disqualifications if they fail to comply with the hand-held mobile telephone restriction.

The subject of texting by drivers of commercial motor vehicles is not addressed in this rulemaking because 625 ILCS 5/12-610.2 prohibits a person from operating a motor vehicle on a roadway in Illinois while using an electronic communication device to compose, send or read an electronic message. In the near future, the Department will promulgate a general rulemaking to address penalties and disqualifications for drivers of commercial motor vehicles who fail to comply with the texting prohibition.

The Department determined that this change is in the best interest and welfare of the State to improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs in intrastate transportation and in response to the FMCSA's final rule, which became effective on January 3, 2012.

- 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 rulemaking will not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be directed to:

Ms. Cathy Allen
Illinois Department of Transportation
Division of Traffic Safety

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1340 North 9th Street
Springfield, Illinois 62702

217/785-3031

JCAR requests, comments and concerns regarding this rulemaking shall be directed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new reporting requirements are necessary for compliance with this rulemaking.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in the Department's last two Regulatory Agendas because the Department could not anticipate the timing of the need for the amendment.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 391
QUALIFICATION OF DRIVERS

Section

391.1000	General
391.2000	Incorporation by Reference of 49 CFR 391

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5362, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. 783, effective January 11, 1994; amended at 19 Ill. Reg. 13077, effective August 30, 1995; amended at 20 Ill. Reg. 15365, effective November 18, 1996; amended at 23 Ill. Reg. 5133, effective March 31, 1999; amended at 24 Ill. Reg. 1991, effective January 19, 2000; amended at 25 Ill. Reg. 2126, effective January 17, 2001; amended at 26 Ill. Reg. 8997, effective June 5, 2002; amended at 27 Ill. Reg. 9238, effective June 2, 2003; amended at 29 Ill. Reg. 19251, effective November 10, 2005; amended at 32 Ill. Reg. 10420, effective June 25, 2008; amended at 36 Ill. Reg. _____, effective _____.

Section 391.2000 Incorporation by Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006, [as amended by 76 FR 75470, December 2, 2011 and 77 FR 1889, January 12, 2012](#) subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

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- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.
- 1) Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.
- 2) 49 CFR 391.2 is not incorporated and the following substituted therefor:
- A) Farm custom operation. The rules in this Part, except for 49 CFR 391.15(f), do not apply to a driver who drives a commercial motor vehicle controlled and operated by a person engaged in custom-harvesting operations, if the commercial motor vehicle is used to:
- i) Transport farm machinery, supplies, or both, to or from a farm for custom harvesting operations on a farm; or
- ii) Transport custom harvested crops to storage or market.
- B) Apiarian industries. The rules in this part, except for 49 CFR 391.15(f), do not apply to a driver who is operating a commercial motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.
- C) Certain farm vehicle drivers. The rules in this part, except for 49 CFR 391.15(f), do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) commercial motor vehicle, as defined in 49 CFR 390.5. For limited exemptions for farm vehicle drivers of articulated commercial motor vehicles, see 49 CFR 391.67.
- 32) 49 CFR 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.

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~~43~~) *Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations (IMCSR) and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner. (Section 18b-105 of the Law)*

~~54~~) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

~~65~~) 49 CFR 391.43(a) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b), the medical examination

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shall be performed by a licensed medical examiner as defined in 92 Ill. Adm. Code 390.1020.

| 76) If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

| 87) 49 CFR 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle in interstate or intrastate transportation if the Division Administrator, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Driving of Commercial Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3)

<u>Section Number:</u> 392.2000	<u>Proposed Action:</u> Amend
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- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) A complete description of the subjects and issues involved: This rulemaking is being promulgated to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs) used in intrastate transportation. This action is a result of the Federal Motor Carrier Safety Administration's (FMCSA) final rule that was published in the Federal Register at 76 FR 75470 on December 2, 2011, effective January 3, 2012. The FMCSA rule regulates interstate transportation only, which requires the Department to promulgate this rulemaking to restrict the use of hand-held mobile telephones by drivers of CMVs in intrastate transportation.

This rulemaking will improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs. The public interest and welfare are at stake due to the seriousness of driver distraction, especially by drivers of CMVs. Driver distraction can be defined as the voluntary or involuntary diversion of attention from primary driving tasks due to an object, event or person. Researchers classify distraction into several categories: visual, manual, cognitive and auditory. Research shows that using a hand-held mobile telephone while driving may pose a higher safety risk than other activities because it involves all four types of driver distraction. Using a hand-held mobile telephone may reduce a driver's situational awareness, decision making or performance; and it may result in a crash, near-crash, unintended lane departure by the driver, or other unsafe driving action. The FMCSA's final rule of December 2, 2011 allows the driver operating a CMV to use a hands free mobile telephone to conduct voice communication. The FMCSA's final rule also provides for an emergency exception when it is necessary for the driver of a CMV to communicate with law enforcement officials or other emergency services.

The subject of texting by drivers of commercial motor vehicles is not addressed in this proposed amendment because 625 ILCS 5/12-610.2 prohibits a person from operating a motor vehicle on a roadway in Illinois while using an electronic communication device to compose, send or read an electronic message. In the near future, the Department will

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promulgate a general rulemaking to address penalties and disqualifications for drivers of commercial motor vehicles who fail to comply with the texting prohibition.

The Department determined that this change is in the best interest and welfare of the State to improve safety on the highways of Illinois by reducing the prevalence of distracted driving-related crashes, fatalities and injuries involving drivers of CMVs in intrastate transportation and in response to the FMCSA's final rule, which became effective on January 3, 2012.

- 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 rulemaking will not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be directed to:

Ms. Cathy Allen
Illinois Department of Transportation
Division of Traffic Safety
1340 North 9th Street
Springfield, Illinois 62702

217/785-3031

JCAR requests, comments and concerns regarding this rulemaking shall be directed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation

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Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new reporting requirements are necessary for compliance with this rulemaking.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in the Department's last two Regulatory Agendas because the Department could not anticipate the timing of the need for the amendment.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 392
DRIVING OF COMMERCIAL MOTOR VEHICLES

Section

- 392.1000 General
392.2000 Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. 740, effective January 11, 1994; amended at 18 Ill. Reg. 10359, effective June 15, 1994; amended at 19 Ill. Reg. 13038, effective August 30, 1995; amended at 20 Ill. Reg. 15330, effective November 18, 1996; amended at 23 Ill. Reg. 5093, effective March 31, 1999; amended at 24 Ill. Reg. 1942, effective January 19, 2000; amended at 25 Ill. Reg. 2090, effective January 17, 2001; amended at 26 Ill. Reg. 9002, effective June 5, 2002; amended at 27 Ill. Reg. 9243, effective June 2, 2003; amended at 29 Ill. Reg. 19256, effective November 10, 2005; amended at 32 Ill. Reg. 10425, effective June 25, 2008; amended at 36 Ill. Reg. _____, effective _____.

Section 392.2000 Incorporation by Reference of 49 CFR 392

- a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006, as amended by 76 FR 75470, December 2, 2011. No later amendments to or editions of 49 CFR 392 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to

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refer to the appropriate citation in the FMCSR.

- c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

- d) 49 CFR 392.80(d) is not incorporated.

- e) 49 CFR 392.9a (Operating authority) is not incorporated and the following is substituted therefor:

- 1) Registration required. A motor vehicle providing transportation requiring registration under 49 USC 13902 may not be operated without the required registration or operated beyond the scope of its registration.
- 2) Penalties. Every motor vehicle providing transportation requiring registration under 49 USC 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 USC 14901.
- 3) Driver compliance. Upon the issuance of the out-of-service order under subsection (e)(2) of this Section, the driver shall comply immediately with such order.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Uniform Disposition of Unclaimed Property Act
- 2) Code Citation: 74 Ill. Adm. Code 760
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
760.94	Amendment
760.100	Amendment
- 4) Statutory Authority: Implementing and authorized by the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025]
- 5) A Complete Description of the Subjects and Issues Involved: Having not been updated since 1992, the proposed changes bring greater compliance with the Act's intent to safe keep property, return property to its rightful owner, and to accomplish both in the most practical manner. Because a significant number of claimants come forward after publication and initial outreach attempts, Section 760.94 is amended to base the sale date of the securities and commodities off of the publication date. This change allows for a claimant to reclaim the property in the same form it was remitted (e.g., it has not been liquidated) and removes an inherent regulatory conflict in the current rule by basing the sale of a security or commodity off of its publication date rather than its receipt date.

Similarly, the amended Section 760.100 removes the unnecessary requirement of having the claimant's signature guaranteed by an officer with a bank or other financial institution when claiming an asset in excess of \$5,000. This requirement is unneeded given other evidentiary requirements placed on each claimant, such as identity verification and proof of property ownership.
- 6) Proposed 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

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- 11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Bradley A. Rightnowar
Rules Coordinator
Office of the Illinois State Treasurer
1 West Old State Capitol Plaza
Springfield, Illinois 62701

217/557-9360
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas as it was not anticipated by the Office of the Treasurer at the time of their respective publication.

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

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TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 760

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section	
760.10	Definitions
760.15	Presumption of Abandonment
760.20	Negative Reports
760.21	Reporting
760.22	Format/Form of Reports
760.24	Incomplete/Inaccurate Report or Remittance
760.25	Filing Extensions
760.30	Safe Deposit Boxes
760.35	Due Diligence
760.40	Cost of Mailing
760.50	Nominee and Street Name Property
760.60	Lawful Charges
760.70	Discontinuance of Interest or Dividends
760.80	Statute of Limitations (Repealed)
760.85	Situs
760.89	Fees
760.90	Examination of Property Holders
760.92	Remittance of Securities and Commodities
760.94	Receipt and Sale of Securities and Commodities
760.95	Examination Gap
760.100	Claims
760.110	Hearings on Claims
760.115	Non-Claim Hearings

AUTHORITY: Implementing and authorized by Section 26 of the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025/26].

SOURCE: Filed November 20, 1977; emergency amendment at 3 Ill. Reg. 39, p. 225, effective September 14, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 48, p. 153, effective November 20, 1979; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1464, effective January 18, 1984; amended at 15 Ill. Reg. 8555, effective May 24, 1991; amended at 17 Ill. Reg. 123, effective December 21, 1992; emergency amendment at 17 Ill. Reg. 6321, effective April 6,

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1993; amended at 17 Ill. Reg. 9893, effective June 21, 1993; amended at 18 Ill. Reg. 18001, effective December 12, 1994; amended at 20 Ill. Reg. 8325, effective June 8, 1996; recodified from the Department of Financial Institutions (38 Ill. Adm. Code 180) to the State Treasurer, pursuant to PA 91-16, at 26 Ill. Reg. 8164; emergency amendment at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days; emergency expired March 3, 2005; amended at 36 Ill. Reg. _____, effective _____.

Section 760.94 Receipt and Sale of Securities and Commodities

- a) Securities and commodities received by the State Treasurer as unclaimed property shall be sold ~~no sooner as soon as practical and not later~~ than one year ~~or later than two years~~ from the date of ~~their respective publications pursuant to Section 12 of the Act, receipt~~ subject to the following:
- 1) ~~The Securities and commodities shall not be sold prior to ninety (90) calendar days subsequent to the date of the first publication of the owner's name(s) and address(es), pursuant to Section 12 of the Act; unless the~~ Treasurer or the Treasurer's authorized representative determines it would be in the best interests of the owner (such as: responding to a tender offer, bankruptcy filing, liquidation, adverse or favorable market conditions) for the sale to occur prior to the expiration of the ~~one year period following the publication of the securities or commodities~~ ninety (90) calendar day period.
 - 2) Securities and commodities eligible for sale will not be sold when a claim has been filed with the Treasurer by a potential owner, heir or agent. However, upon approval of a claim, the owner, heir or agent may request the Treasurer to dispose of the securities or commodities by sale and remit the net proceeds to the owner, heir or agent, or, upon disapproval of the claim, the Treasurer shall ~~by sale~~ dispose of the securities or commodities by sale.
- b) Securities and commodities ~~that~~ which become reportable abandoned property under the Act, when remitted to the Treasurer, must include all interest, ~~dividends~~ dividend(s), stock ~~splits~~ split(s), if any, warrants, or other rights even though ~~the said~~ interest, ~~dividends~~ dividend(s), stock ~~splits~~ splits(s), warrants, or other rights standing alone would not be reportable abandoned property.
- c) Interest, ~~dividends~~ dividend(s), stock ~~splits~~ split(s), warrants, or other rights

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~~that~~~~which~~ become reportable abandoned property under the Act, must, when remitted to the Treasurer, include the underlying security or commodity giving rise to the interest, ~~dividends~~~~dividend(s)~~, or ~~splits~~~~split(s)~~, warrants, or other rights.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 760.100 Claims

a) Filing of Claims:

- 1) Claims shall be prepared and filed only on the following forms, provided by the State Treasurer, ~~which shall provide~~, upon request, the following:
 - A) Owner Claim Form;
 - B) Owner, Indemnification Form;
 - C) Holder Claim Form;
 - D) Corporate Claim Form;
 - E) Heir/Other Claim Form; or
 - F) Small Estate Affidavit.
- 2) The claimant shall assert on the appropriate form that he or she is the true owner of the unclaimed property and agrees to indemnify and hold harmless the Treasurer, its officers and employees, and the State of Illinois in the event of a successful claim to ~~the~~~~such~~ property by another claimant.
- 3) If the subject property is valued at more than ~~\$100,500.00 but less than \$5,000.00~~, the ~~signature~~~~signature(s)~~ of the ~~claimant~~~~claimant(s)~~ shall be notarized by a notary public or be guaranteed by an officer of a bank or financial institution with which the ~~claimant~~~~claimant(s)~~ currently ~~do~~~~does~~ business.
- 4) ~~If the subject property is valued at \$5,000.00 or more, the signature(s) of the claimant(s) shall be guaranteed by an officer of a bank or other financial institution with which the claimant(s) currently does business.~~

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- 45) If ~~a claimant~~~~the claimant(s)~~ is the owner and the value of the property does not exceed \$500.00, a fully completed owner claim form and owner indemnification form, submitted to the Treasurer, will be accepted as "proof of claim", unless the Treasurer has facts within its knowledge ~~that~~~~which~~ would rebut the claim.
- 56) If the subject property is a two-party check, the claimant must, in addition to submitting a fully completed claim form:
- A) submit the original check; or
 - B) submit verification in the form of an affidavit from the issuing agent of the check that the ~~claimant~~~~claimant(s)~~ is the true owner of the check and the issuing agent would pay the value of the check to the ~~claimant~~~~claimant(s)~~ if the issuing agent had not remitted the funds to the Director; or
 - C) post a surety bond, issued by an insurance company with an A+ or A rating by A.M. Best and Company, in the amount of the check.
- b) ~~Assignment of Interest:~~
The Treasurer shall consider the claim of a designee or attorney-in-fact of any claimant, provided that:
- 1) a properly executed and notarized release of interest or power of attorney is submitted with the claim form; ~~and~~
 - 2) the person filing the claim has submitted an affidavit stating that the claimant is the true owner of the property; ~~and~~
 - 3) claim proceeds shall only be delivered to the rightful owner; and
 - 4) compensation shall not exceed 10% of the claim amount collected, except as provided by Section 20(c) of the Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.60	Amend
250.70	Amend
250.90	Amend
250.110	Amend
- 4) Statutory Authority: 110 ILCS 70
- 5) Effective Date of Amendments: April 6, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: October 28, 2011; 35 Ill. Reg. 17415
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: A change was made in Section 250.60(b)(4)(A) that removed "; or" and added a period. Section 250.60(h)(10) was amended to further clarify the permissive removal of names from a register. Specifically, "and approved by the Merit Board" is added after "Director" in the 1st sentence. Also, a second sentence is added.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

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<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
250.30	Amend	Mach 9, 2012; 36 Ill. Reg. 3840

- 15) Summary and Purpose of Amendments: The adopted amendments include the following: Section 250.60(h) is amended by adding a new subsection (10) to provide for the permissive removal of names from certain registers when a vacant position has been posted and the posting includes a timeline for removal or discontinuation of the register for that specific vacancy. Section 250.70(d) is amended to change the name of the Trainee program to Intern program. Section 250.90(b)(2) is amended to allow for the extension of the probationary period for a comparable amount of time for any required off-site training period, as approved by the Executive Director of the University System. Section 250.110(b)(1) is amended to reflect the name change of the Trainee program to Intern program. Section 250.110(f)(16) and (17) is amended to eliminate language regarding a rehearing and reconsideration of the final Merit Board order or decision in discharge cases, providing for appeal through the provisions in the Administrative Review Act.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Abby K. Daniels
Manager, Legal Services and Legal Counsel
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana, IL 61802

Phone: 217/278-3150, ext. 226
Email: abbyd@sucss.state.il.us

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEMPART 250
STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section

250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg. 1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996;

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amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012.

Section 250.60 Eligible Registers

- a) Establishment of Registers
 - 1) The employer shall establish three kinds of registers in each place of employment in accordance with this Part: reemployment, promotional, and original entry.
 - 2) The employer shall file with the office of the Executive Director a list on a quarterly basis containing name, class, date of examination, examination number and score of all candidates, and these records shall constitute the master record of examinations taken by the applicants of the System for that employer.
- b) Composition of Registers
 - 1) Reemployment registers shall contain names of status employees who have been laid off through reduction in force or who, because of reallocation or reclassification of positions or other causes not prejudicial to the service, have failed to gain eligibility in the new class or who have chosen not to qualify in the new class. The registers shall have the appropriate names listed according to class and in the order of seniority as earned up to the date of eligibility for a position on the reemployment register.
 - 2) Each lesser unit shall have its own reemployment register.
 - 3) Promotional registers shall be by class and shall contain names in the following categories and order:
 - A) Listed in order of total service in the class:
 - i) names of employees with status appointments, after having been certified from the promotional register, who have

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- been laid off during the probationary period through reduction in force, with credit for total service as of date of layoff; or
- ii) names of employees with status appointments, after having been certified from the promotional register and who, during the probationary period, have failed to gain eligibility following reallocation or reclassification of positions, with credit for total service as of date of ineligibility; or
 - iii) names of current employees reinstated by total service in accordance with subsection (j)(4).
- B) Listed in order of promotional examination scores: names of successful candidates in accordance with Section 250.50(b).
- 4) Original entry registers shall be by class and shall contain names in the following categories and order:
- A) Listed in order of total service to the employer: names of employees who have been, or who may be, separated from status appointments, after completion of at least six months of service to the employer, resulting from a permanent abolishment of a functional service, provided that not later than 90 days after the abolishment of the service, they have qualified for, and have received a passing score on, an original entry examination for the class. ~~or~~
 - B) Listed in order of total service in the class:
 - i) names of employees with status appointments, after having been certified from the original entry register, who have been laid off during the probationary period through reduction in force, with credit for total service as of date of layoff; or
 - ii) names of employees with status appointments, after having been certified from the original entry register and who,

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during the probationary period, have failed to gain eligibility following reallocation or reclassification of positions, with credit for total service as of date of ineligibility; or

- iii) names of current employees reinstated by total service in accordance with subsection (j)(4).
- C) Listed in order of total service in the class:
- i) names of former employees restored by total service in accordance with subsection (j)(5); or
 - ii) names of employees seeking transfer, listed according to total service as of date of request for transfer.
- D) Listed in order of original entry examination scores: names of successful candidates in accordance with Section 250.50(b) and employees seeking transfer in accordance with Section 250.100(c)(3).
- c) Precedence of Registers. For appointment purposes, registers shall have precedence in the following order: reemployment, promotional, and original entry.
- d) Certification from Registers
- 1) Reemployment in positions shall be made in accordance with the register, with highest seniority taking precedence. From a reemployment register, the employer shall certify only one name for appointment.
 - 2) From the promotional register or original entry register, the employer shall certify the three names standing highest on the register at the time the vacancy is declared, or as otherwise provided under subsection (d)(3).
 - 3) When ties in scores exist on an original entry register or promotional register for a class, all candidates with a tie score, and hence of the same relative excellence, shall be equally eligible to be considered as one of the available candidates certified from the register. No person on the register

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shall be eligible or available for certification as one of the three persons standing highest on the register if three or more persons are eligible at a higher score level as a result of tie scores. The employer shall conduct a personal interview with, and shall consider, all candidates certified from the register in this manner prior to making its recommendation for selection, except that a single selecting official for the employer shall not be required to interview more than once the same candidate, as currently certified from the register, for a position of the same class.

- 4) If a total of three names is not available from the promotional register and/or original entry register, the employer shall certify those listed, and in addition may refer enough other candidates so that the employing officer has the choice of three candidates for the position. Such additional candidates as are necessary to provide the employing officer with a choice of three must be qualified for the class of the position to which referred and may be employed in accordance with Section 250.70(b)(1) and Section 250.90(b)(6).
- 5) A promotional register and/or an original entry register becomes closed for the purpose of certification of the names of candidates to a particular vacant position at a time established by the employer. Once this time has been established, it must become a matter of record, and it cannot be changed unless, when this time is reached, the employer is unable to provide to the selecting official three candidates from the promotional register and/or original entry register, and the selecting official wishes to interview three candidates prior to filling a position, whereupon a new date must be established in accordance with the aforementioned procedure. The selecting official shall interview from the registers, for any one vacancy, in accordance with the provisions of subsection (d)(3).
- 6) Candidates on an eligible register may be referred concurrently to more than one vacancy in the appropriate class, if, in the judgment of the employer, the procedure is needed to speed up employment transactions. Total referrals to a vacant position are to be limited to three available candidates, or in accordance with the provisions of subsection (d)(3).
- 7) The name of a candidate on a register, who at the time of induction into military service is an employee of an employer under the University System, shall be placed in suspension until the termination of military

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service, at which time his/her name shall be reactivated on the appropriate register in the order of his/her score on the original examination, providing the register of the class has not been voided during the period of his/her military leave.

- 8) In making a selection from among the three names certified from standing highest on the register, and in accordance with the provisions of subsection (d)(3), the employer shall not discriminate because of race, color, religious or political affiliation, or because of age or sex, when the reasonable demands of the position do not require such a distinction.
 - 9) The Executive Director may authorize specialized position certification for eligible register candidates who possess special and identified qualifications that previously have been established as job-related requirements for a specific position, as well as being fully qualified for the class. Certification from a register shall be made from the top three scoring candidates who possess the established specialized requirements.
- e) Acceptance of Candidates. The employer shall record the appointment of the candidate selected, and shall return the names passed over to the appropriate eligible register for future certification.
- f) Registers by Places of Employment
- 1) Applicants applying for examinations will be asked to specify places of employment at which they will accept employment, except as provided for in subsection (f)(4), and a statement of that place of employment preference shall constitute a refusal by the candidate of employment at other places of employment. The statement of limited availability shall not constitute a refusal to accept an offer of employment as defined in subsection (g)(5), or employment in the place or places of employment in which the candidate declares himself/herself available for employment. A candidate may amend his/her statements of availability at any time while his/her name is on a register.
 - 2) Following examination, a candidate may request the transfer of an active passing original entry examination score to a place of employment other than the one at which he/she originally wrote the examination.

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- 3) Following examination, a candidate may request the transfer of an active passing promotional examination score to any place of employment within his/her employing institution or agency.
 - 4) In an institution with multi-campus operations, in which a central administrative unit has been established by the Merit Board as a separate place of employment, promotional registers and original entry registers for that place of employment shall be an amalgamation of all promotional registers and original entry registers, respectively, of all places of employment established for that institution.
- g) Mandatory Removal of Names from Registers. The employer shall remove the names of candidates from the reemployment registers, original entry registers and promotional registers for the reasons set forth in subsections (g)(1) through (9). The reasons are:
- 1) Certification from the register to a status position in a specific class and acceptance of a status appointment in that position and class.
 - 2) Death of the candidate.
 - 3) Receipt of proof or determination by the Merit Board that the candidate lacks any of the required qualifications, or is subject to rejection for any cause specified in Section 250.50(c).
 - 4) Receipt by an employer of a written request from the candidate to remove his/her name from a register.
 - 5) Refusal, without reasonable cause, to accept three offers of status appointment by the candidate.
 - 6) Resignation of the candidate from a status position.
 - 7) Attempt by a candidate to practice any deception or fraud in connection with an examination or application for employment.
 - 8) When a change in class or testing standards or another classification plan change requires removal. In this instance, specific guidelines for the removal of names from registers shall be provided by the University

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- 9) From promotional registers at the termination of the leave of absence from a position in his/her former class when a candidate accepts a position in a class outside the promotional line of the applicable registers.
- h) Permissive Removal of Names from Registers. The employer may remove the names of candidates from original entry registers and from promotional registers for the reasons set forth in this subsection (h). Names of candidates may be removed from reemployment registers for the reasons set forth in subsections (h)(1) through (7). The reasons include, but are not limited to, the following:
 - 1) Failure of a candidate to report for work without good cause within the time prescribed by the employer, after accepting a status or a temporary appointment.
 - 2) Leaving the service of any employer served by the University System by an employee with a status appointment.
 - 3) Failure to reply to the employer within seven calendar days immediately following an offer of a status or a temporary appointment by an employer.
 - 4) Notice by postal authorities of their inability to locate the candidate at his/her last known address, or verbal notice from the owner or occupant of the premises that the candidate is no longer at his/her last known address and that no forwarding address has been provided.
 - 5) Failure of a candidate, upon request, to furnish written evidence of availability for employment.
 - 6) Failure, without reasonable cause, to reply to the employer or appear for an interview within a reasonable time prescribed by the employer, when the employer has mailed either a notice of a vacancy in a status or temporary position or a letter of interest to the candidate's last known address.
 - 7) Upon the candidate's acceptance of a promotion.
 - 8) Failure of a candidate to be selected for employment after four referrals

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for a status appointment in the same class.

- 9) When candidates' names have remained on original entry registers for two consecutive years following date of most recent examination, or following date of original entry restoral on the basis of service or seniority in accordance with subsection (j)(3), (4), or (5).

10) [In classifications identified by the Executive Director and approved by the Merit Board, upon the expiration of the designated timeframe specified in a formal position vacancy posting. Classifications to be included under this provision shall be determined by, but not limited to, an evaluation of the following factors: occupation area, employment and turnover rates, pre-employment screening protocols utilized, operational needs and trends, and/or other special circumstances and justification.](#)

- i) Notification of Candidates of Removal of Names from Registers. Candidates whose names are removed from reemployment registers, promotional registers, and/or original entry registers in accordance with subsections (g) and (h) shall be notified in writing by the employer and provided the reason for the removal.
- j) Restoration of Names to Registers. The employer may return to an appropriate register:
- 1) Within one year after the date of removal, any name removed from a register for the reasons set forth in subsections (g)(3) or (4), or in subsection (h).
 - 2) Any name to a reemployment register as provided for in Section 250.110(b)(3)(G)(i).
 - 3) Any name of an employee to an original entry register or to a promotional register who has qualified by examination and who has been laid off during his/her probationary period, in the order of length of service in the class determined in accordance with Section 250.90(b)(4) and (5).
 - 4) The name of a current employee who has been previously employed in a class for which restoral is being requested by service and/or seniority in that former class.

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- 5) The name of a former status employee who resigned or otherwise has been separated from employment in good standing and who, within one year after resignation or separation from employment, requests restoration to a register shall, upon approval of the employer, be restored on the original entry register in accordance with seniority earned as of the date of resignation or separation as determined in accordance with Sections 250.90(b)(5) and 250.120(e). The former employee may be required to pass physical tests or other tests required by this Part to determine fitness at the time of restoral. Seniority earned prior to resignation shall be restored.

(Source: Amended at 36 Ill. Reg. 6014, effective April 6, 2012)

Section 250.70 Nonstatus Appointments

- a) Temporary Appointments
 - 1) Temporary appointments are made to any positions the employer certifies to be emergent, temporary, or transitory. Temporary appointments shall be for not more than three months. With approval of the Executive Director, they may be renewed in accordance with need up to a maximum of six months less one day.
 - 2) An employer shall fill a temporary position by calling candidates in the same manner as for status appointments, and in accordance with Section 250.60(d). Refusal to accept, or acceptance of, a temporary appointment by a candidate shall in no way affect the candidate's position on the register, regardless of number of refusals or acceptances.
 - 3) A candidate may request that he/she not be called for temporary positions.
- b) Provisional Appointments
 - 1) In the absence of a register, an employer may make a provisional appointment, in accordance with Section 36n of the Act, providing the person so appointed possesses the qualifications for the position stated in the appropriate class specification. In order to establish eligibility for a status appointment, the provisional appointee must file application for, and pass, the examination for the appropriate class.

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- 2) A provisional employee who has not qualified by examination may continue to be employed, providing no candidate is available for appointment from the appropriate register.
- c) Apprentices Appointments
- 1) An apprentice is a nonstatus employee who is employed in an occupation defined as an "apprenticeable occupation" by the United States Department of Labor, Bureau of Apprenticeship and Training, in accordance with registered apprenticeship standards. These standards shall include, but are not necessarily limited to, criteria for screening and selection of apprentices, term of apprenticeship, requirements of related instruction, a schedule of work processes, a progressively increasing schedule of wages, periodic evaluations of the apprentice's progress, recognition for successful completion of the apprenticeship, and other requirements as established by the Joint Apprenticeship Committee governing the program in which the apprentice is enrolled and employed. The standards must meet basic requirements and be registered with the USDOL Bureau of Apprenticeship and Training.

AGENCY NOTE: An apprenticeable occupation is a trade or craft that is recognized as apprenticeable by the USDOL Bureau of Apprenticeship and Training, is customarily learned through work experience that requires 4,000 or more hours of work to learn, requires related instruction or study to supplement the work experience, is clearly identified and commonly recognized throughout the industry, involves the development of skill and knowledge sufficiently broad to be applicable in like occupations throughout an industry, and meets the standards of the area.

- 2) A program meeting the basic fundamentals for registration will be developed by a joint apprenticeship committee composed of employer, employee representatives, and a representative from the USDOL Bureau of Apprenticeship and Training. The program shall be submitted to, and approved by, the Executive Director. Following the Executive Director's approval, the program will be submitted for approval and registration to the USDOL Bureau of Apprenticeship and Training. However, no apprentice program will be developed for a job classification for which there is an existing registered area program.

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- 3) Apprentices who are individually registered in the program registered with the USDOL Bureau of Apprenticeship and Training, may be employed without University Civil Service examination.
- 4) An apprentice who satisfactorily completes apprenticeship in accordance with the prescribed apprenticeship standards of the program in which registered will have attained the status of journeyman. The incumbent will not be subject to University Civil Service examination and no right to continuation in employment is earned by the satisfactory completion of the apprenticeship. If employment is continued at the journeyman level after satisfactory completion of an apprenticeship, seniority in the promotional line shall be counted from the date that the employee acquires journeyman status.

d) Intern~~Trainee~~ Appointments

- 1) With the approval of the Executive Director, an employer may appoint an interna~~trainee~~ to any position, provided all of the following criteria have been met:
 - A) no qualified candidates are available from a reemployment register or promotional register for the class;
 - B) a predetermined and scheduled program of development, training or experience has been established and approved for the candidate;
 - C) a compensation program has been developed that provides for progressively increasing salary levels payable upon completion of defined phases of training. The intern's~~trainee's~~ starting salary shall not be more than 95% of the minimum of the approved pay range for the class. The intern's~~trainee's~~ salary, after increases have been awarded, shall not exceed 95% of the midrange of the approved pay range for the class; and
 - D) the employer can verify that one of the following factors exists:
 - i) the candidate lacks one or more of the minimum qualifications for the class;

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- ii) recruitment efforts have failed to attract qualified candidates;
 - iii) operating needs warrant ongoing training programs to supplement staffing recruitment efforts;
 - iv) there is a recognized need for specialized training programs in technical or professional fields.
 - 2) If, in the opinion of the employer, the [interntrainee](#) completes the prescribed [trainingtraining program](#) in accordance with the standards established by that [intern](#) program, he/she shall be certified to a position of the class for which he/she completed his/her [interntraining](#) program.
 - 3) Following successful completion of [an interna-training](#) program and probationary period, seniority in the promotional line, or in the class, shall be counted from the date that the employee satisfactorily completes the [interntraining](#) program.
 - 4) If a class has fewer than 10 positions, an employer may have one [interntrainee](#) appointment in the class. If a class contains 10 or more positions, not more than 10% of the total positions in the class may be filled by [interntrainee](#) appointments on any day of operation.
- e) Student Appointments
- 1) Each employer shall determine which positions shall be designated as student positions, and when so designated, they shall be filled according to this Part and such other regulations as are established by the employer pursuant to this Part, subject to the approval of the Executive Director.
 - 2) A student employee shall not displace a certified Civil Service employee.
 - 3) A student, for purposes of this Part, shall be one who is registered for course work at an institution served by the University System for at least one-half of the normal workload of a regularly enrolled full-time student, as such workload is determined by the employer. Lacking such enrollment during a summer session, or summer quarter, an applicant may

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be considered a student for the purposes of this Part if he/she was enrolled as a student during the quarter or semester immediately preceding the summer session, or if he/she indicates an intention to be so registered during the quarter or semester immediately following the summer employment. In any case, the possession of a properly authenticated student identification card shall be deemed as providing satisfactory evidence of student status. The Executive Director may approve exceptions to this subsection (e)(3) when sufficient cause is evidenced; such as, but not limited to, graduating seniors, financial hardship cases, personal or physical problems, etc.

- 4) A uniform classification plan for student employees, which shall provide groups of positions sufficiently similar in duties, responsibilities and qualifications as to be given the same class title and to be of a similar level of job worth, shall be established by each employer, subject to the approval of the Executive Director.
- 5) Each employer shall establish a wage rate or range for each position grouping, taking into account job requirements, rates paid locally for similar work, including rates paid to Civil Service employees, consistency within the student aid program of the employer, and availability of funds. No student employee shall be paid below the minimum rate, or above the maximum rate, as established for the position grouping in which he/she is employed, unless approved by the Executive Director. No maximum rate for student employment shall exceed the maximum rate established for comparable Civil Service classes on the same campus.
- 6) The employer may give applicants for student employment a screening examination, without Civil Service status, if the examination is deemed necessary for the selection of employees.
- 7) No seniority as a Civil Service employee is earned through employment in a position designated as student.
- 8) A student employee is not eligible for paid vacation, paid holidays, or disability leave, as established by the Benefits Policy approved by the Merit Board and by the governing Boards of the institutions served by the University System.

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- 9) A position designated as student may be terminated at any time at the discretion of the employer.
 - 10) Each employer may make such regulations and policies governing student employment on its respective campuses as it deems desirable, subject to the Act and this Part governing the University System.
- f) Extra Help Appointments
- 1) An Extra Help appointment may be made by an employer to any position for work the employer attests to be casual or emergent in nature and that meets the following conditions:
 - A) the amount of time for which the services are needed is not usually predictable;
 - B) payment for work performed is usually made on an hourly basis; and
 - C) the work cannot readily be assigned, either on a straight-time or on an overtime basis, to a status employee.
 - 2) Qualification determination shall consist of a review of the employee's application and a verbal interview. Qualifications will be determined to be Acceptable or Not Acceptable. When skills are required for clerical/secretarial positions, an examination to demonstrate acceptable skills will be administered. The applicant will be required to pass the examination at a standard established by the employer. A listing of those applicants who have been determined to be Acceptable shall be maintained by the employer.
 - 3) An employer shall fill an Extra Help position by referring persons to the employing unit from the Extra Help list of Acceptable candidates.
 - 4) Acceptance or refusal to accept an Extra Help appointment by a candidate shall in no way affect the candidate's position on any Extra Help list, or on any other register maintained by the employer.
 - 5) Classifications will be established in broad categories, such as

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administrative, professional, technical, clerical, trades, and service.

- 6) An Extra Help position may be utilized for a maximum of 900 hours of actual work in any consecutive 12 calendar months. The employer shall review the status of the position at least every three calendar months. If at any time it is found that the position has become an appointment that is other than Extra Help, the employer shall terminate the Extra Help appointment. If an Extra Help position has accrued 900 consecutive hours, the position shall not be reestablished until six months have elapsed from the date of the termination of the position.
- 7) Upon working 900 hours, an Extra Help employee cannot resume employment in any Extra Help appointment at a place of employment until 30 calendar days have elapsed.
- 8) The employer shall quarterly review its use of Extra Help appointments to ensure compliance with this Section.
- 9) Compensation of Extra Help employees shall be within the limits established for comparable service in status employment.

(Source: Amended at 36 Ill. Reg. 6014, effective April 6, 2012)

Section 250.90 Probationary Period

- a) Purpose of Probationary Period. The probationary period is an integral part of the examination process, and shall be utilized by the employer for close observation and evaluation of the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and to determine whether an employee demonstrates the ability and qualifications necessary to furnish satisfactory service. Periodically, throughout the probationary period, the employer should discuss with the employee his/her progress on the job. An employee who is dismissed during a probationary period shall be given the reasons for his/her dismissal, with the understanding that the reason is not reviewable.
- b) Duration of Probationary Period
 - 1) Candidates employed from the reemployment register shall not be

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required to serve a new probationary period.

- 2) An employee who has accepted a status appointment shall be on probation for no less than six months and no longer than 12 months. The probationary period shall be extended by a comparable amount of time for the following personnel actions: a paid or unpaid leave of absence that exceeds more than five consecutive work days; a layoff of any duration; a suspension of any duration; or a designated off-site formalized training session, provided the Executive Director has approved the off-site training for that extension. If the probationary period is interrupted by a paid or unpaid leave of absence that exceeds more than five consecutive work days, a layoff, or a suspension, a comparable amount of time shall be added to the probationary period. The probationary period shall begin on the date of assignment to duty and shall expire at the close of business on the last working day that completes the probationary period for the class, regardless of percentage of time of employment during the probationary period. If the employee is not dismissed during the probationary period, the employee shall become a status employee at its conclusion.
- 3) An employee reinstated to a register in accordance with Section 250.60(j)(4) who is subsequently appointed to a position of his/her former class shall complete his/her probationary period in the former class, if he/she has not already done so.
- 4) An employee who goes on layoff status during the probationary period may, upon written request of the employer, be reinstated by the Executive Director on either the original entry register or promotional register, as appropriate, in accordance with total service earned as of the date of the layoff and may be appointed thereafter to the same or similar position. The reinstated employee shall complete the probationary period for the class in which eligibility has been established, although his/her service may be interrupted by one or more layoffs.
- 5) Service in a higher class shall count toward completion of the probationary period in a lower class in the same promotional line. Service in a lower class shall not be counted toward completion of probationary period in a higher class of the same promotional line.
- 6) A provisional employee shall begin a probationary period on the date of

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entrance into a status appointment for which the employee is eligible.

(Source: Amended at 36 Ill. Reg. 6014, effective April 6, 2012)

Section 250.110 Separations and Demotions

- a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation or other evidence of intent to separate from employment, the employee will be separated from employment. The Executive Director shall be notified promptly by the employer of all resignations.
- b) Leave of Absence
 - 1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any [intern appointment](#)~~trainee~~, provisional [appointment](#), and/or probationary period in the new class.
 - 2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position.
 - 3) Leave of Absence for Disability Leave
 - A) If an employee is no longer able to perform the duties and responsibilities of his/her position in the class due to a disability as determined by the employer's medical and/or psychological evaluation procedures, and/or in accordance with State and federal law, the employee will be required to take disability leave in accordance with subsection (b)(3)(B).
 - B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers'

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Compensation Act [820 ILCS 305], the Illinois Occupational Diseases Act [820 ILCS 310], or a State self-insurance program, shall be granted a disability leave. The disability leave shall be the period for which the employee applies for such benefits, until the time of the expiration of the benefits or a final administrative decision denying or terminating the benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the approving authority.

- C) The employer may require an employee to take a medical and/or psychological examination prior to returning to work after a disability leave. The examination shall be conducted by a licensed practitioner selected by the employer to determine the physical and/or mental capability to perform the essential duties of the employee's position. The employer may supply the examining practitioner with facts relating to the employee's difficulty or inability to perform the essential functions of the job and may supply additional information, including but not limited to physical and mental requirements of the employee's position, duty statement, job classification specification, and position description. The employee may also present an alternative opinion provided by a licensed practitioner to be selected and paid for by the employee. If there is a difference of opinion, a third outside practitioner shall be selected by the two physicians. The employer shall pay for all examinations, except those initiated by the employee.
- D) An employee's refusal to submit to an examination as described in subsection (b)(3)(C), the unexcused failure to appear for such an examination, or the refusal to release the results of the examination may be deemed by the employer as an acknowledgement that the employee is not fit for duty and may subject the employee to termination actions as defined in subsection (c).
- E) A disability leave may be revoked by the employer upon evidence that the cause for granting the leave was misrepresented.
- F) At the expiration of all disability benefits, an employee shall be entitled to return to a position in his/her class without any loss of status due to the disability leave, providing that he/she returns

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upon the expiration of all disability benefits to which entitled.

G) Reemployment

- i) If an employee does not return to work at the expiration of all disability benefits and is terminated in accordance with subsection (c)(2), the employee may, within one year following the expiration of all disability benefits, request reinstatement and, upon approval of the Executive Director, the employee's name may be placed on the reemployment register in the class in which he/she was employed at the time the disability leave was granted and in accordance with total seniority earned.
- ii) If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but, because of his/her disability, is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the University System.

4) Military Leave of Absence. An employee shall be granted a Military Leave of Absence in accordance with State and federal law and regulations.

5) The Executive Director shall be notified promptly by the employer of all leaves of absence, including military, disability, or any other leave otherwise granted. The notification shall include the beginning and ending dates of leaves that exceed 30 calendar days of non-pay status.

c) Termination

- 1) An employee having a non-status appointment, as described in Section 250.70 of this Part, may be terminated by his/her employer at any time during the training period and/or upon completion of the work assignment, except for those status employees eligible for a leave of absence as defined in subsection (b)(1).
- 2) An employee on disability leave, as defined in subsection (b)(3), who has exhausted all of his/her disability benefits and is unable to resume the

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duties and responsibilities of a position in his/her class may be terminated from employment, unless the employer and employee agree on employment in a more suitable classification. The alternative employment options shall be subject to standard civil service employment protocols.

- 3) An employee who fails to report for duty after a disability leave of absence has expired or has been denied, disapproved, revoked, or canceled by the approving authority, or any other failure to report for duty as scheduled after a disability leave of absence, may be terminated from employment.
- 4) This notification and review process shall only apply to subsection (c)(2) and (c)(3).
 - A) The employer shall notify the employee that he/she will be terminated from the employer's service to become effective 15 calendar days from the date of mailing of the notification to the employee. The notification must be sent, by certified mail or by overnight delivery service that requires signature upon receipt, to the most recent address of the employee as shown on the employer's records.
 - B) At any time prior to the effective date of termination, the employee shall have the opportunity to provide to the employer evidence of the reason for the unauthorized absence. The employer shall revoke the termination if the employee provides satisfactory evidence of the reason for the unauthorized absence. If the employer determines that the evidence is not satisfactory, the employer shall notify the employee that the termination will remain in effect.
 - C) Within 15 calendar days from the original date of notification of termination, the employee may request a review of the termination decision pursuant to Section 250.130 of this Part. The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 15 days after the original notification.

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- 5) The employer shall notify the Executive Director promptly of all terminations of employment, setting forth the reason for the termination.
- d) Layoff
- 1) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date of layoff may be extended up to 15 days without the requirement of further notice.
 - 2) Whenever it becomes necessary to lay off one or more employees, except as provided in subsection (d)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.
 - 3) An employee who is the incumbent of a position for which the Executive Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position that has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class, may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.
 - 4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 day advance notice of layoff if the work period is to be 5 consecutive working days or less and the work is emergent in nature.
 - 5) A status employee who is subject to layoff from a part-time position may bump an employee in a full-time status position, providing the part-time

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employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee who is subject to layoff may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment, providing the full-time employee has more accrued seniority.

- 6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in accordance with service in a status appointment earned as of the date of layoff.
- e) Disciplinary Suspension. An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.
- 1) The employer will discuss the specific problem pertaining to contemplated suspension with the employee and the Campus Human Resource Director or his/her designee before a suspension notice is served. The employee will be told at that time that suspension is being considered.
 - 2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Executive Director and shall send a copy of the notice served on the employee, along with proof of service, to the Executive Director.
 - 3) Causes justifying suspension, not for discharge as provided for in subsection (f)(2), shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to ring in or out on time card; habitual lateness; punching other time cards; key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; insolence; failure to adhere to departmental regulations of appearance; smoking in prohibited areas; disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting; and "loafing on the job".

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AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution, but is not reviewable by the Civil Service System.

- f) Discharge Proceedings and Effective Date of Discharge
 - 1) Pre-discharge Proceedings
 - A) Prior to initiating any proceedings before the Merit Board for the discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, by certified mail or by overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. The notification shall also advise the employee that either or both of the following options are available to the employee:
 - i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
 - ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (f)(1)(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work

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days after the conclusion of the conference.

B) Employer's Decision

i) Within 7 work days after compliance with the provisions of subsection (f)(1)(A), the employer shall either:

- notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification; or
- initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.

ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with subsection (e) or some lesser penalty.

C) An employee who has been served with an employer's notification as provided in subsection (f)(1)(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(1) to provide the employer an opportunity to investigate serious charges.

2) Actual Discharge Proceedings

A) Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer filing Written Charges for Discharge with the Merit Board setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge shall be set forth in separately numbered charges. The Written Charges for Discharge shall contain the dates, names of persons, places, and facts necessary to properly

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allege cause for discharge. If a breach of duty, statute, or rule of the employer is alleged, the statute, law, or rule shall be cited in connection with the charge.

- B) The Written Charges for Discharge shall be accompanied with a certification by the employer that all procedures set forth in subsection (f)(1) have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge and the certification are filed with the Merit Board, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file a proof of the service with the Merit Board.
- C) At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations related to the subject matter of the original charges. The amendments shall relate back to the original date of service of the Written Charges for Discharge. The employer shall serve copies of the Amended Written Charges for Discharge upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file a proof of the service with the Merit Board.
- D) An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(2)(A) and (B) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the

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Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file with the Merit Board a copy of the Suspension Notice Pending Discharge and proof of service.

3) Hearing Request

- A) An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for hearing with the Secretary for the Merit Board within 15 calendar days after the date of personal delivery or mailing of the Written Charges for Discharge to the employee. The Secretary for the Merit Board shall immediately notify the employer of the filing of the written request by the employee. Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.
- B) If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.

4) Hearing Proceedings

- A) Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to

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commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(19)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the hearings in no more than three hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following conclusion of the hearings.

- B) Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer

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can appeal to the Executive Director by showing cause why time should be extended.

- C) The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been filed.
- D) Upon certification by the Executive Director, the Secretary for the Merit Board shall, by certified mail or by overnight delivery that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the postmark of the certified mail notice or the mailing date of the overnight delivery that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.
- E) A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date of the postmark of the certified mail notice or the mailing date of the overnight delivery of the certified hearing record, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will generally not be allowed unless novel or precedent setting questions of law or

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policy are at issue.

- 5) Conduct of Hearing
 - A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the day of the hearing. The Hearing Board or Hearing Officer will give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer will conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:
 - i) defining and simplification of the issues;
 - ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;
 - iii) reviewing each party's witness and exhibit list;
 - iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;
 - v) determining the length of time each party will need to present its case;
 - vi) exchanging exhibits; and
 - vii) discussing any matter that may aid in the efficient and timely disposition of the case.
 - B) Following the Pre-hearing Conference. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the

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discretion of the Hearing Board or Hearing Officer, but should generally be concluded within a one hour timeframe.

- 6) Order of Hearing
 - A) The Executive Director, or authorized representative, shall open and convene the hearing.
 - B) The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.
 - C) The parties may make a brief opening statement at the beginning of the hearing. The employer will proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.
 - D) The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.
 - E) The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.
 - F) Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.
 - G) At the conclusion of the hearing, each party may make an oral closing argument. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.

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- H) The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.
 - I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded with the transcript of evidence and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.
- 7) Evidence and Motions
- A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - B) All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.
 - C) The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.

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- D) The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.
 - E) The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.
 - F) Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the postmark of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.
 - G) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.
- 8) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.
- 9) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a

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hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.

- 10) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least five work days before the hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:
 - A) The name and address of the witnesses sought;
 - B) Any specific documents the witnesses will be required to bring; and
 - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. Prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
 - A) A list of the names and addresses of the witnesses the party proposes to call; and
 - B) All documents the party proposes to offer in its case-in-chief.
- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.

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- 13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.
- 14) Ex Parte Communications
 - A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after Notice of Convening of Hearing has been issued, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.
 - B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (f), and related procedures, are not considered ex parte communications.
- 15) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:
 - A) Conduct the pre-hearing conference;

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- B) Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;
- C) Establish reasonable limits on the duration of witness testimony;
- D) Limit repetitive or cumulative testimony;
- E) Rule on motions, objections or evidentiary questions;
- F) Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);
- G) Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;
- H) Prepare a signed findings of fact within 15 calendar days after receipt of the transcript of the hearing proceedings to be transmitted to the Merit Board. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and
- I) Enter any order that further carries out the purpose of this Section.

- 16) [Final](#) Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the

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discharge proceedings. Nothing in subsections (f)(16)(A) and (B) is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:

- A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or
 - B) Reinstatement, if just cause for discharge is found not to exist. An employee shall be reinstated as follows:
 - i) Reinstatement with no loss of compensation when none of the significant charges are proven.
 - ii) Reinstatement with a 60-day suspension when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a 60-day suspension, any time served while on suspension pending discharge will be applied towards the fulfillment of the 60-day suspension.
- 17) Final Decision and Order of the Merit Board. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the employer and the employee by certified mail or by overnight delivery that requires signature upon receipt. ~~Request for a rehearing, or for a reconsideration of a Merit Board order or decision, shall not extend any appeal period for administrative review, except by express order of the Merit Board or its Chair.~~
- 18) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days

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after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.

- 19) Time Period Proceedings
- A) On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may be extended by the Chair of the Merit Board or by the Executive Director for good cause shown.
 - B) No extension may be beyond a period established by statute, except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary for the Merit Board at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his or her immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.
 - C) The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods

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set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.

- D) If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.
- 20) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools, or equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics, and/or intoxicants.
- 21) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer. The Merit Board shall pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.
- g) Demotion
- 1) Any of the actions described in this subsection (g)(1) is considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:
- A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that

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- the pay potential should be lowered for a class;
- B) is subject to a reduction in percentage of time worked;
 - C) is appointed to a position in a lower class in a promotional line;
 - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
 - E) is given a nonstatus appointment.
- 2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the employee.
- A) Evidence of initiation by, or willing acceptance by, an employee shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.
 - B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.
- 4) An employer may effectuate a demotion by filing a Notice of Demotion with the Merit Board and serving a copy of the Notice of Demotion on the employee by certified mail, by overnight delivery that requires signature upon receipt, or by personally serving the employee. The Notice of Demotion shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the date of service of the Notice of Demotion upon the employee. A demotion shall be subject to the same

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hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion.

- 5) A status employee who is demoted to a position in a class in which he/she has never been employed on a status appointment may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining his/her appointment.

h) Dismissal

- 1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position at any time during the probationary period of employment in a class, if the employer determines, pursuant to conditions of Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish satisfactory service.
- 2) The employer shall notify the Executive Director promptly of dismissals, setting forth the reasons for the dismissal.

(Source: Amended at 36 Ill. Reg. 6014, effective April 6, 2012)

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding this emergency amendment shall be directed to:

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

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603

MEDICATION

Section

- 603.10 Pre-Race Saliva Tests
- 603.20 Racing Soundness Exam
- 603.30 Foreign Substances and Pharmaceutical Aids Banned
- 603.40 Twenty-four Hour Ban
- 603.50 Trainer Responsibility
- 603.55 Prima Facie Evidence
- 603.60 Permitted Use of Foreign Substances and Threshold Levels

EMERGENCY

- 603.70 Furosemide
- 603.75 Environmental Contaminants
- 603.80 Needles, Syringes and Injectables
- 603.90 Drugs, Chemicals and Prescription Items
- 603.100 Detention Barn
- 603.110 Test Samples
- 603.120 Referee Samples
- 603.130 Laboratory Findings and Reports
- 603.140 Distribution of Purses
- 603.150 Post Mortems
- 603.160 Penalties
- 603.170 Veterinarian's Records
- 603.180 Carbon Dioxide Tests
- 603.190 Erythropoietin and Darbepoietin Antibody Testing Program
- 603.200 Out of Competition Testing
- 603.210 Androgenic-Anabolic Steroids (AAS)

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days; emergency amendment at 35 Ill. Reg. 2810, effective February 1, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 7400, effective April 25, 2011; amended at 35 Ill. Reg. 8485, effective May 23, 2011; emergency amendment at 35 Ill. Reg. 15296, effective September 6, 2011, for a maximum of 150 days; emergency rule repealed by emergency amendment at 35 Ill. Reg. 18434, effective October 24, 2011, for the remainder of the 150 days; amended at 36 Ill. Reg. 330, effective January 1, 2012; emergency amendment at 36 Ill. Reg. 3290, effective February 15, 2012; ; emergency amendment at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels**EMERGENCY**

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone),

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

flunixin, pyrilamine, isoxsuprine and ketoprofen.

- 3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma. However, the threshold levels of phenylbutazone and oxyphenylbutazone for graded thoroughbred stakes races shall be less than 2.0 micrograms per milliliter of serum or plasma.
- A) In the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 2.0 micrograms but less than 5.0 micrograms of serum or plasma, the trainer shall be subject to a written warning.
- BA) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- CB) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;

ILLINOIS RACING BOARD

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- iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:
 - A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
 - i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
 - B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
 - i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, pyrilamine, isoxsuprine and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.
- 7) Penalties for violations of this Section shall be based on the following criteria:
 - A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;
 - C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;
 - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.
 - 1) Anti-Bacterials
 - Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline

ILLINOIS RACING BOARD

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Enrofloxacin (Baytril)
Erythromycin sulfate
Gentamicin sulfate
Kanamycin sulfate
Methenamine
Metronidazole
Neomycin sulfate
Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethozine
Sulfadimethoxine
Sulfamethoxazole
Sulfametranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecyclenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

ILLINOIS RACING BOARD

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- d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines, when making additions to the permitted list, that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International (ARCI, 1510 Newtown Pike, Suite 210, Lexington, KY 40511; August 2011 version 2.01; this incorporation includes no later amendments or editions).
- f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:
 - 1) The threshold level of isoxsuprine shall be less than 1,000.0 ng/ml in urine.
 - 2) The threshold level of pyrilamine shall be less than 50.0 ng/ml in urine.
- g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 3, 2012 through April 9, 2012 and have been scheduled for review by the Committee at its May 15, 2012 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
5/17/12	<u>Housing Development Authority,</u> Homeownership Mortgage Loan Program (47 Ill. Adm. Code 300)	2/13/12 36 Ill. Reg. 1097	5/15/12
5/20/12	<u>Department of Human Rights,</u> Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)	2/17/12 36 Ill. Reg. 2408	5/15/12
5/20/12	<u>Department of Revenue,</u> Income Tax (86 Ill. Adm. Code 100)	2/17/12 36 Ill. Reg. 2485	5/15/12

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the 1st Quarter of 2012. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Addition Modifications – Other rulings
Allocation
Credits – Replacement Tax Investment
Public Law 86-272/Nexus
Returns
Subtraction Modifications – Other Rulings
Trusts

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER INCOME TAX SUNSHINE INDEX

ADDITION MODIFICATIONS – OTHER RULINGS

IT 12-0004-GIL 03/13/2012 Taxpayer who claimed subtractions for contributions to Section 529 plans is required to add back distributions not used for qualifying expenses into income in the year of the distribution, rather than amending his returns for the years the contributions were made to disallow the subtractions.

ALLOCATION

IT 12-0005-GIL 03/14/2012 Compensation paid in this State to a nonresident is taxable by Illinois.

CREDITS – REPLACEMENT TAX INVESTMENT

IT 12-0002-GIL 01/31/2012 For purposes of determining the credit rate for increased employment, employment for the prior taxable year is the average employment for each month of the taxable year and, in the case of a short taxable year, uses only the number of months in that taxable year.

PUBLIC LAW 86-272/NEXUS

IT 12-0001-GIL 01/12/2012 Nexus issues are not generally suitable for resolution by letter ruling.

IT 12-0007-GIL 3/15/2012 Nexus issues are not generally suitable for resolution by letter ruling.

RETURNS

IT 12-0003-GIL 02/07/2012 Preparation of pro-forma federal returns by partners to same-sex civil unions explained.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER INCOME TAX SUNSHINE INDEX

SUBTRACTION MODIFICATIONS – OTHER RULINGS

IT 12-0006-GIL 03/14/2012 Taxpayer is not allowed a subtraction from federal taxable income to exclude that portion of a gain recognized on the disposition of an asset that resulted from basis reductions attributable to losses that the taxpayer was unable to use to reduce net income in any year.

TRUSTS

IT 12-0008-GIL 03/23/2012 Illinois income tax treatment of charitable remainder unitrusts follows the federal income tax treatment.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2012. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Computer Software
Exempt Organizations
Gas Revenue Tax
Governmental Bodies
Gross Receipts
Leasing
Manufacturing Machinery &
Equipment

Medical Appliances
Miscellaneous
Nexus
Sale at Retail
Sale for Resale
Service Occupation Tax
Telecommunications Excise Tax

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Marie Keeney
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

COMPUTER SOFTWARE

- ST 12-0002-GIL 01/06/2012 This letter concerns the taxation of computer software transactions. See 86 Ill. Adm. Code 130.1935.
- ST 12-0011-GIL 02/29/2012 This letter concerns the taxation of computer software transactions. See 86 Ill. Adm. Code 130.1935.

EXEMPT ORGANIZATIONS

- ST 12-0013-GIL 03/05/2012 Organizations possessing "E" numbers issued by the Department are exempt on purchases used in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007.

GAS REVENUE TAX

- ST 12-0001-PLR 01/26/2012 This letter concerns purchases for resale of natural gas that is converted into Compressed Natural Gas (CNG) for sale as a motor fuel. See 86 Ill. Adm. Code 470.145.

GOVERNMENTAL BODIES

- ST 12-0003-GIL 01/11/2012 Governmental bodies incur Retailers Occupation Tax liability when selling tangible personal property to the public for use or consumption. The only exception is the sale of an item by a governmental body in the performance of its governmental function. See 86 Ill. Adm. Code 130.2055.

GROSS RECEIPTS

- ST 12-0007-GIL 01/31/2012 This letter discusses layaway service charges and cancellation fees. See 86 Ill. Adm. Code 130.430.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 12-0015-GIL 03/16/2012 GROSS RECEIPTS: This letter discusses sales of prescription drugs by servicemen. See 86 Ill. Adm. Code Part 140.

LEASING

ST 12-0005-GIL 01/20/2012 LEASING: Information regarding sales tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010.

MANUFACTURING MACHINERY & EQUIPMENT

ST 12-0002-PLR 03/30/2012 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

ST 12-0016-GIL 03/21/2012 The manufacturing machinery and equipment exemption can be documented by using Illinois Department of Revenue Form "ST-587 Equipment Exemption Certificate", which can be found on the Department's website. See 86 Ill. Adm. 130.330.

MEDICAL APPLIANCES

ST 12-0017-GIL 03/23/2012 A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311.

MISCELLANEOUS

ST 12-0001-GIL 01/06/2012 This letter responds to a questionnaire. See 86 Ill. Adm. Code, Parts 130, 150, and 270.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 12-0006-GIL 01/27/2012 Municipal gas taxes imposed under the authority provided in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) are not administered by the Department of Revenue.

ST 12-0010-GIL 02/29/2012 This letter discusses taxation of purchases of printing paper by Illinois printer customers. See 86 Ill. Adm. Code Sections 130.1405 and 130.2105.

NEXUS

ST 12-0019-GIL 03/30/2012 This letter discusses nexus. See *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992).

SALE AT RETAIL

ST 12-0009-GIL 02/28/2012 This letter discusses deal-of-the-day transactions. 35 ILCS 120/1.

SALE FOR RESALE

ST 12-0004-GIL 01/20/2012 This letter is a response to a survey regarding drop shipments. For information regarding drop shipments, see the Department's regulation entitled "Drop Shipments," found at 86 Ill. Adm. Code 130.225.

ST 12-0018-GIL 03/27/2012 This letter addresses sales for resale. See 86 Ill. Adm. Code 130.1405.

SERVICE OCCUPATION TAX

ST 12-0008-GIL 02/24/2012 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 12-0012-GIL 03/05/2012 This letter concerns tax imposed on tangible personal property transferred incident to sales of service. *See* 86 Ill. Adm. Code Part 140.

Telecommunications Excise Tax

ST 12-0014-GIL 03/14/2012 "Prepaid telephone calling arrangements" are taxable under the Retailers' Occupation Tax Act. *See* 35 ILCS 120/2-7.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 36, Issue 16 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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