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August 17, 2012 Volume 36, Issue 33

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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
43	October 15, 2012	October 26, 2012
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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Operations of the State Fairs and Fairgrounds
- 2) Code Citation: 8 Ill. Adm. Code 270
- 3) Section Number: 270.370 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the State Fair Act [20 ILCS 2010]; implementing Section 40.14 and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 40.14]
- 5) A Complete Description of the Subjects and Issues Involved: Section 270.370 is being amended to add language regarding the Department's discretion to sell, barter or exchange grandstand, entry and any other type of fair ticket.
- 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:

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

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: No additional reporting, bookkeeping or other procedures are necessary.
 - C) Types of professional skills necessary for compliance: The types of professional skills necessary for compliance are identical to what is already in effect.
- 14) Regulatory agenda on which this rulemaking was summarized: Rulemaking was not anticipated at the time of either regulatory agenda.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER j: FAIRS

PART 270

GENERAL OPERATIONS OF THE STATE FAIRS AND FAIRGROUNDS

SUBPART A: DEFINITIONS: POLICY: VIOLATION

Section	
270.10	Definitions
270.15	Policy
270.20	Violation of Rules; Administrative Hearings

SUBPART B: CONCESSIONS AND EXHIBITS AT THE STATE FAIR

Section	
270.25	Categories of Exhibits
270.30	Privilege to Operate a Concession or Exhibit
270.35	Application for Reassignment of Space
270.40	New Applications for Space Rental
270.45	Substitute Locations or Discontinuance of Contracts
270.50	Reassignment of Space by Department
270.55	Number of Stands Permitted
270.60	Policy Governing Exhibits/Concessions and Approval to Conduct Business
270.65	Policy of Permitting Space Without Monetary Charge
270.70	Exercising Constitutional Freedoms
270.75	Assignment of Contracts
270.80	Inspection of Premises
270.85	Removal or Denial of Acceptance
270.90	Concessions and Exhibits Prohibited
270.95	Liquified Petroleum Gas
270.100	Merchandising Permits
270.105	Measuring Space
270.110	Electricity
270.115	Broadcasting Devices
270.120	Display of Exhibit or Concession Number
270.125	Protection of the Public and Lessee's Property
270.130	Distributing Literature or Display Advertising

DEPARTMENT OF AGRICULTURE

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270.135	Payment of Space Rental Contract
270.140	Operational Hours
270.145	Sales Prior to the State Fair
270.150	Sales During the State Fair
270.155	Property Shipped to the State Fair
270.160	Removal of Property
270.165	Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages
270.170	Inside Exhibits
270.175	Posting Food Prices
270.180	Clean-Up
270.185	Public Health
270.190	Food and/or Drink Service Operations
270.195	Release Procedure
270.200	Security
270.205	Liability
270.210	Concessionaire's or Exhibitor's Trailers
270.215	Failure to Abide by Rules or Contract Provisions
270.220	Lessee's General Standard of Conduct
270.221	Emergency Closing

SUBPART C: HORSE RACING AT THE STATE FAIR

Section	
270.225	Categories of Horse Racing
270.230	State Fair Colt Stakes Races
270.235	Review Futurity Races
270.240	Illinois Trotting and Pacing Colt Races
270.245	Quarter Horse Races

SUBPART D: PREMIUMS AND RULES GOVERNING EXHIBITS OR EVENTS

Section	
270.250	Premiums Offered
270.255	Premium Books
270.260	Payment of Premiums
270.261	Land of Lincoln Breeders Awards for Purebred or Registered Livestock

SUBPART E: JUDGES: STATE FAIR

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- Section
- 270.265 Professional and Artistic Contracts
- 270.270 Judge's Salary
- 270.275 Selection of Judges

SUBPART F: CERTIFICATES OF AWARD: STATE FAIR

- Section
- 270.280 Certificates, Ribbons and Trophies

SUBPART G: FEES FOR ADMISSION TO THE STATE FAIR

- Section
- 270.285 Daily Admission Charge
- 270.290 Special Events
- 270.295 Designated Days
- 270.300 Gate Admission Charge Waived
- 270.305 Schedule of Admission Charges and Fees
- 270.310 Admission of Motor Vehicles
- 270.315 Employees of Exhibitor/Concessionaire

SUBPART H: TRAFFIC CONTROL, PARKING AND CAMPING: STATE FAIR

- Section
- 270.320 Camping Location
- 270.325 Fee for Camping
- 270.330 Camping Sticker
- 270.335 Removal of Illegally Parked Vehicles
- 270.340 Extension Cords
- 270.345 Traffic Control and Parking; Spraying Livestock Trucks

SUBPART I: MISCELLANEOUS RULES GOVERNING
THE OPERATION OF THE STATE FAIR

- Section
- 270.350 Pets
- 270.355 Structures of Lessee
- 270.360 Restrictions
- 270.365 Intoxicating Beverages

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- | 270.370 ~~Tickets/Refunds~~~~Grandstand Ticket Refunds~~
- 270.371 Leasing Facilities During the State Fair

SUBPART J: NON-FAIR SPACE RENTAL:
BASIC RULES APPLICABLE TO ALL RENTALS

- Section
- 270.375 Non-Fair Availability Dates
- 270.380 Application for Space
- 270.385 Reassignment
- 270.390 Compliance with State Law and Regulations
- 270.395 Removal Rights or Denial of Acceptance
- 270.400 Assigned Space
- 270.405 Inspection
- 270.410 Payment
- 270.415 Tickets
- 270.420 Facility Availability
- 270.425 Parking
- 270.430 Security
- 270.435 Fire Regulations
- 270.440 Tables and Chairs
- 270.445 Clean-Up
- 270.450 Alterations
- 270.455 Insurance
- 270.460 Discrimination
- 270.465 Camping (Repealed)
- 270.470 Concessions
- 270.475 Delinquency
- 270.480 Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages
- 270.485 Non-Exclusivity (Repealed)
- 270.490 Lessee's General Standard of Conduct
- 270.495 Criteria for Grant of Privileges
- 270.500 Waiver of Applicable Rules (Repealed)
- 270.505 Rate Schedules
- 270.510 Limit on Duration of Contract
- 270.515 Liquefied Petroleum Gas

SUBPART K: NON-FAIR CONCESSIONS

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Section
270.520 Renter Rights (Repealed)
270.525 Contract
270.530 Interests of the Public
270.535 Liability
270.540 Health Laws
270.545 Rates
270.550 Inspection
270.555 Payment Due

SUBPART L: CAMPING: NON-FAIR

Section
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270.565 Location
270.570 Fee
270.575 Camping Facilities
270.580 Permit
270.585 Penalty
270.590 Extension Cords

SUBPART M: BACKSTRETCH CAMPING: NON-FAIR

Section
270.595 Eligibility
270.600 Misconduct
270.605 Liability
270.610 Rent and Rates for Other Services
270.615 Payment Method

SUBPART N: BACKSTRETCH STALL AND
TACK ROOM RENTAL: NON-FAIR

Section
| 270.620 Horse Stabling Space Rental and Rates
270.625 Rent Payable
270.630 General Stabling Rules (Non-Contractual Events)
270.635 Reporting
270.640 Lessee Collection of Fees (Repealed)

DEPARTMENT OF AGRICULTURE

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270.645	Stall Use
270.650	Restriction to Assigned Space
270.655	Trailer Storage
270.660	Inspection
270.665	Restrictions
270.670	Quarantine Provisions
270.675	Dogs
270.680	General Misconduct
270.685	Track Usage
270.690	Restrictions on Barn Use

AUTHORITY: Implementing and authorized by the State Fair Act [20 ILCS 210]; implementing Section 40.14 and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 40.14].

SOURCE: Adopted at 4 Ill. Reg. 25, p. 34, effective June 11, 1980; amended at 5 Ill. Reg. 1332, effective January 29, 1981; codified at 5 Ill. Reg. 10532; amended at 6 Ill. Reg. 8958, effective July 9, 1982; amended at 8 Ill. Reg. 6103, effective April 25, 1984; emergency amendments at 10 Ill. Reg. 13370, effective July 28, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14282, effective August 20, 1986; amended at 10 Ill. Reg. 20468, effective November 26, 1986; amended at 11 Ill. Reg. 2228, effective January 20, 1987; amended at 15 Ill. Reg. 455, effective January 2, 1991; amended at 18 Ill. Reg. 9400, effective June 12, 1994; amended at 19 Ill. Reg. 9400, effective June 29, 1995; amended at 21 Ill. Reg. 5530, effective April 22, 1997; amended at 22 Ill. Reg. 11374, effective June 22, 1998; amended at 34 Ill. Reg. 8996, effective July 1, 2010; amended at 35 Ill. Reg. 19143, effective December 1, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART I: MISCELLANEOUS RULES GOVERNING
THE OPERATION OF THE STATE FAIR

Section 270.370 Tickets/Refunds~~Grandstand Ticket Refunds~~

- a) All tickets sold by the Department shall be at the prices published to the public. The Department may barter or exchange tickets for services, advertising, marketing, promotions, donations or any other contribution for the benefit of the fairs. A record of the distribution of tickets that are bartered or exchanged and the benefit to the fairs of that barter or exchange shall be maintained by the Department.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- b) Grandstand event tickets will be sold with refund provisions. This policy applies to all paid events in the Grandstand, such as; ~~tractor pulls~~~~Tractor Pulls~~ and nightly entertainment. The Department will not refund on events that are rescheduled or where a raindate is provided. The Department shall make the determination of when Grandstand ~~events~~~~Events~~ shall be cancelled. Events may be cancelled because of weather, the facility and performers' failure to perform. Refunds will be made when the tickets are presented at the designated place for filing for refund.

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.810 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Video Gaming Act [230 ILCS 40/78(a)(3)]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1800.810(c) of the video gaming rules (11 Ill. Admin. Code 1800.810(c)) provides that "all video gaming terminals must be located in those areas of a licensed video gaming location with restricted visibility from areas outside the business." Several municipalities, however, have requirements in their liquor codes requiring clear visibility inside a bar in contravention of the above rule provision. For example, various liquor codes require that nothing (i.e., a screen, blind, curtain, or partition) shall be allowed in the windows or doors preventing a clear view into the interior of a bar, that nothing shall be allowed inside the bar that would prevent a full view of the entire interior of the premises, or that the entire space used by the public must be so located that there shall be a full view of the same from the street, road or sidewalk. Because of these local requirements, many licensed video gaming locations will face a conflict between the requirements of their liquor codes and the restricted visibility mandate of Section 1800.810(c). In addition, Section 1800.810(c) may in some instances be incompatible with Section 1800.810(b) that requires that "all video gaming terminals must be located in an area restricted to persons over 21 years of age" and additionally directs that "any licensed video gaming location that allows minors to enter where video gaming terminals are located shall separate any video gaming terminals from the area accessible by minors". In light of these competing liquor code and rule requirements, the Board proposes the deletion of Section 1800.810(c).
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 10) Are there any proposed rulemakings to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1800.820	New Section	36 Ill. Reg. 9377; June 29, 2012
1800.230	Amendment	36 Ill. Reg. 9863; July 13, 2012
1800.250	Amendment	36 Ill. Reg. 9863; July 13, 2012
1800.260	Amendment	36 Ill. Reg. 9863; July 13, 2012
1800.310	Amendment	36 Ill. Reg. 9863; July 13, 2012
1800.520	Amendment	36 Ill. Reg. 9863; July 13, 2012
1800.830	New Section	36 Ill. Reg. 9863; July 13, 2012
1800.1310	New Section	36 Ill. Reg. 9863; July 13, 2012
1800.110	Amendment	36 Ill. Reg. 11492; July 20, 2012
1800.1410	Amendment	36 Ill. Reg. 11492; July 20, 2012
1800.250	Amendment	36 Ill. Reg. 12699; August 10, 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: No public hearing on the proposed rulemaking is scheduled at the present time. 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
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Phone No. 312/814-7137
Fax No. 312/814-7253
lynn.carter@igb.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- A) Types of businesses affected: The rulemaking will affect licensed establishments, licensed fraternal organizations, licensed veterans organizations and licensed truck stops licensed under the Video Gaming Act [230 ILCS 40].
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2012

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

ILLINOIS GAMING BOARD

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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, REGISTRATION,
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
- 1800.1065 Registration 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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SUBPART L: FINGERPRINTING OF APPLICANTS

Section

1800.1210	Definitions
1800.1220	Entities Authorized to Perform Fingerprinting
1800.1230	Qualification as a Livescan Vendor
1800.1240	Fingerprinting Requirements
1800.1250	Fees for Fingerprinting
1800.1260	Grounds for Revocation, Suspension and Denial of Contract

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. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. _____, effective _____.

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS**Section 1800.810 Location and Placement of Video Gaming Terminals**

- a) All licensed video gaming locations and terminal operators shall be responsible for the proper placement, installation, maintenance and oversight of video gaming terminals within a licensed video gaming location as prescribed by the Act and this Part.
- b) All video gaming terminals must be located in an area restricted to persons over 21 years of age. Any licensed video gaming location that allows minors to enter

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

where video gaming terminals are located shall separate any video gaming terminals from the area accessible by minors.

- e) ~~All video gaming terminals must be located in those areas of a licensed video gaming location with restricted visibility from areas outside of the business.~~
- cd) When two or more adjacent businesses appear to the Administrator to be a single business, or are operated by the same or commingled ownership, then the Administrator may limit those businesses to the maximum number of video gaming terminals. The maximum will be the number permitted under Illinois law for one business as the total number of video gaming terminals authorized for both or more such businesses, where the Administrator determines that the limitation would further the intent of the Act and the integrity of video gaming in the State of Illinois.
 - 1) In the event the Administrator decides that two or more adjacent businesses shall be a single business for purposes of determining the maximum number of video gaming terminals to which they are entitled, the Administrator shall provide the affected businesses with written notice of this decision in accordance with the notice requirements of Section 1800.615.
 - 2) An applicant that has been deemed to constitute a single business with one or more adjacent businesses for purposes of determining the maximum number of video gaming terminals to which it is entitled may submit a request for hearing to the Board. The hearing procedures shall be those set forth in Subpart F.
- de) The owner, manager or employee of the licensed video gaming location who is over 21 years of age shall be present during all hours of operation, and the video gaming terminals or the entrance to the video gaming terminal area must be within the view of at least one owner, manager or employee.

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

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- 1) Heading of the Part: Health Maintenance Organization
- 2) Code Citation: 50 Ill. Adm. Code 5421
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5421.20	Amendment
5421.30	Amendment
5421.40	Amendment
5421.50	Amendment
5421.60	Amendment
5421.100	Amendment
5421.110	Amendment
5421.112	Amendment
5421.113	Amendment
5421.141	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7]
- 5) A Complete Description of the Subjects and Issues Involved: The federal Affordable Care Act (ACA) proposes to establish one-stop marketplaces called Health Care Exchanges. The purpose of these exchanges is to enable consumers and small businesses to choose high quality, affordable private health insurance plans that fit their health needs. The ACA specifies that, beginning in 2014, insurance newly sold to individuals and small businesses in an Exchange or otherwise must be at one of four actuarial value levels: 60% (a bronze plan), 70% (a silver plan), 80% (a gold plan), and 90% (a platinum plan). These tiers do not apply to coverage already in existence meeting certain conditions (so-called grandfathered plans).

The ACA also requires that plans cap the maximum out-of-pocket costs for enrollees based on the out-of-pocket limits in high-deductible plans that are eligible to be paired with a Health Savings Account. Under the federal initiative, these limits are \$5,950 for an individual and \$11,900 for a family, and will be adjusted over time after 2014 based on increases in premiums.

Currently under Part 5421, out of pocket costs are capped at \$3,000 for individuals and \$6,000 for families. It is not possible for an HMO product to be offered at the Bronze level to individuals purchasing coverage through an Exchange because of the limitation placed on out of pocket expenses by Part 5421. In order to make HMO coverage

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available to these individuals, the Department is seeking to raise the maximum out of pocket expense to \$6,000 for individuals and \$12,000 for families. In addition, housekeeping changes are being made throughout the Part.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

James Rundblom
Staff Attorney
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

or

Susan Anders
Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

217/785-8559
217/524-9033 (fax)

217/785-8220

- 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

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- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

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TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF ~~INSURANCE~~ ~~FINANCIAL AND PROFESSIONAL~~
~~REGULATION~~

SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5421

HEALTH MAINTENANCE ORGANIZATION

Section

- 5421.10 Scope
- 5421.20 Definitions
- 5421.30 Valuation of Investments
- 5421.40 Grievance Procedure
- 5421.50 Contracts, Administrative Arrangements and Material Modifications
- 5421.60 Rates
- 5421.70 Subordinated Indebtedness
- 5421.80 Financial Reporting
- 5421.90 Conflict of Interest and Required Disclosure
- 5421.100 Solicitation
- 5421.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
- 5421.111 Cancellation
- 5421.112 Form Filing Requirements
- 5421.113 Point of Service Plan Requirements
- 5421.120 Internal Security Standards and Fidelity Bonds
- 5421.130 Basic Health Care Services
- 5421.131 Basic Outpatient Preventive and Primary Health Care Services for Children
- 5421.132 Required Coverage for Reconstructive Surgery Following Mastectomies
- 5421.140 General Provisions
- 5421.141 HMO Producer Licensing Requirements
- 5421.142 Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers
- 5421.150 Severability
- 5421.160 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7].

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SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective July 25, 1996; recodified at 21 Ill. Reg. 1729; emergency amendment at 21 Ill. Reg. 15262, effective November 18, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6671, effective March 31, 1998; amended at 23 Ill. Reg. 5690, effective May 3, 1999; emergency amendment at 26 Ill. Reg. 5146, effective March 25, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13088, effective August 19, 2002; amended at 28 Ill. Reg. 14412, effective October 19, 2004; amended at 30 Ill. Reg. 4732, effective March 2, 2006; amended at 36 Ill. Reg. _____, effective _____.

Section 5421.20 Definitions

Act means the Health Maintenance Organization Act [215 ILCS 125].

Advertisement means any printed or published material, audiovisual material and descriptive literature of the health care plan used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the health care plan for presentation to the public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations (Section 1-2(1) of the Act).

Base Rates means the rate generated before any classification deviations are applied.

Basic Health Care Services means emergency care, and inpatient hospital and physician care, outpatient medical services, mental health services and care for alcohol and drug abuse, including any reasonable deductibles and co-payments, all of which are subject to such limitations as are set forth in this Part (see Section 1-2(3) of the Act).

Cancellation means the termination of a group contract, evidence of coverage or individual contract by an HMO prior to the expiration date of the group contract, evidence of coverage or individual contract.

Consumer means any enrollee, provided that such individual is not or has not been in the previous two years: an employee (including his spouse or dependent) of the HMO or affiliate of the HMO; or a provider furnishing health care services to the HMO or affiliate of the HMO.

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Copayment means the amount an enrollee must pay in order to receive a specific covered service which is not fully prepaid.

Deductible means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs associated with treatment.

Director means the Director of the Illinois Department of ~~Financial and Professional Regulation Division of~~ Insurance (see Section 1-2(2) of the Act).

~~Department Division~~ means the Illinois Department of ~~Financial and Professional Regulation Division of~~ Insurance.

~~Department Division~~ of Insurance Complaint means a written complaint filed by or on behalf of an enrollee, with the ~~Department Division~~ pursuant to Section 4-6 of the Act [215 ILCS 125/4-6], excluding complaints filed by Illinois Department of Public Aid HMO members under Section 5-11 [305 ILCS 5/5-11] and complaints subject to handling by the Centers for Medicare and Medicaid Services (CMMS) pursuant to a contract entered into between CMMS and the HMO.

Enrollee means an individual who has been enrolled in a health care plan.
(Section 1-2(4) of the Act).

Evidence of Coverage means any certificate, agreement, or contract issued to enrollees setting out the coverage to which they are entitled in exchange for a per capita prepaid sum (Section 1-2(5) of the Act).

Governing Body means the board of trustees, or directors, or if otherwise designated in the basic organizational document bylaws, those individuals vested with the ultimate responsibility for the management of any organization that has been issued, or is applying for, a certificate of authority as an HMO.

Grievance means any written complaint submitted to the HMO by or on behalf of an enrollee regarding any aspect of the HMO relative to the enrollee, but shall not include any complaint by or on behalf of a provider.

Grievance Committee means individuals who have been appointed by the HMO to respond to grievances which have been filed on appeal from the HMO's

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simplified complaint process established pursuant to Section 5421.40(d) of this Part. At least 50 % of the individuals on this committee shall be composed of enrollees who are consumers.

Group Contract means a contract for health care services which by its terms limits eligibility to members of a specified group (Section 1-2(6) of the Act).

Health Care Plan means any arrangement whereby any organization undertakes to provide or arrange for and pay for or reimburse the cost of any basic health care services from providers selected by the HMO and such arrangement consists of arranging for or the provision of such health care services, as distinguished from mere indemnification against the cost of such services, except as otherwise authorized by Section 2-3 of the Act, on a per capita prepaid basis, through insurance or otherwise (see Section 1-2(7) of the Act). A health care plan also includes any arrangement whereby an organization undertakes to provide, or arrange for, or pay for, or reimburse the cost of any health care services for persons who are enrolled in the integrated health care program established under Section 5-16.3 of the Illinois Public Aid Code [305 ILCS 5/5-16.3] through providers selected by the organization and the arrangement consists of making provision for the delivery of health care services, as distinguished from mere indemnification. A health care plan also includes any arrangement pursuant to Section 4-17 of the Act [215 ILCS 125/4-17]. Nothing in the definition of Health Care Plan, however, affects the total medical services available to persons eligible for medical assistance under the Illinois Public Aid Code.

Health Care Services means any services included in the furnishing to any individual of medical or dental care, or the hospitalization or incident to the furnishing of such care or hospitalization as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury (Section 1-2(8) of the Act).

HMO means Health Maintenance Organization.

Individual Contract means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

Limited Insurance Representative means an individual appointed by an HMO to represent the HMO in the enrollment of recipients of public aid or Medicare in the

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HMO.

Managed Care Organization (MCO) means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

Notice of Availability of the ~~Department~~~~Division~~ as required by this Part shall be no less informative than the following:

The regulations of the Illinois ~~Department~~~~Division~~ of Insurance (50 Ill. Adm. Code 5421.110(n)) require that we advise you that if you wish to take this matter up with the Illinois ~~Department~~~~Division~~ of Insurance it maintains a Consumer Division in Chicago at 100 W. Randolph Street, Suite 9-301, Chicago, Illinois 60601-3251 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767-0001.

Point of Service Plan means a plan in which an eligible enrollee is covered under both an HMO evidence of coverage and an indemnity insurance policy or certificate and may select, on a point of service basis, between using the HMO or the indemnity benefit program.

Primary Care Physician means a provider who has contracted with an HMO to provide primary care services as defined by the contract and who is:

a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice of internal medicine, pediatrics, gynecology, obstetrics or family practice, or

a chiropractic physician licensed to treat human ailments without the use of drugs or operative surgery (77 Ill. Adm. Code 240.2).

Producer means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment (see Section 1-2(13) of the Act).

Provider means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care services and also includes any other entity that arranges for the delivery or furnishing of health care services (Section

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1-2(12) of the Act). For purposes of Section 5421.50 of this Part, Provider shall also mean an MCO.

Renewal means the issuance and delivery by an HMO of a group contract or individual contract superseding at the end of the contract period a contract previously issued and delivered by the same HMO or the issuance and delivery of a certificate or notice extending the term of the group or individual contract beyond its contract term.

Solicitation means any method by which information relative to an HMO is made known to the public for the purpose of informing or influencing potential enrollees to enroll in a Health Care Plan, regardless of the media or technique used.

State means any governing body, department, or agency of the State of Illinois which has regulatory authority governing the Act.

Subscriber means a person who has entered into a contractual relationship with the HMO for the provision of or arrangement of at least Basic Health Care Services to the beneficiaries of such contract (Section 1-2(15) of the Act).

Supplemental Health Care Services means any health care service other than basic health care services.

Usual and Customary Fee shall mean the fee as reasonably determined by the HMO that is based on the fee which the provider who renders the service usually charges its patients for the same service and the fee is within the range of usual fees other providers of similar type, training and experience in a similar geographic area charge their patients for the same service, under similar or comparable circumstances.

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

Section 5421.30 Valuation of Investments

- a) The "Valuations of Securities Manual", as of December 31, 1994 (no later editions or amendments), as published by the National Association of Insurance Commissioners (NAIC), shall be used for valuing securities for which valuations are not otherwise defined by statute or rule. The Director shall disallow any

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procedure prescribed by that manual if the Director deems it necessary to ascertain the condition and affairs of the company. In making this determination, the Director shall consider such factors as:

- 1) the nature of the investment (stocks or bonds);
- 2) the financial condition of the issuing company;
- 3) the applicability of other standardized accounting procedures; and
- 4) other factors affecting the accuracy of the valuation.

b) The following procedure shall be required for the listed investment:

1) Real Estate

Written appraisals for real estate investments shall be submitted to the ~~Department~~~~Division~~ for review 15 days following the end of the month in which the real estate was acquired. Real estate investments requiring approval under Section 3-1(h)(16)(iii) of the Act [215 ILCS 125/3-1(h)(16)(iii)] shall have an appraisal. The appraisal shall be reviewed to insure that the appraisal was performed by a member of the American Institute of Real Estate Appraisers in the customary manner and that the appraisal supports the valuation amount expressed by the company in its annual statement.

2) Valuation of Investments Otherwise Defined

A company that has an investment that cannot be valued in accordance with the procedures outlined in subsection (b)(1) must file a request for valuation with the ~~Department~~~~Division~~ within 15 days following the end of the month in which the investment is acquired. This request shall include at a minimum the following information:

- A) A description of the investment;⁵
- B) Date of acquisition;⁵
- C) Name of vendor;⁵
- D) Cost of investment to company;⁵

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- E) Par value, if relevant;
- F) Rate and/or amount of interest, dividend or other compensation earned or accrued;
- G) Any other significant terms of the investment.

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

Section 5421.40 Grievance Procedure

- a) Every HMO shall submit for the Director's approval, and maintain, a system for the resolution of grievances concerning the provision of health care services or other matters concerning operation of the HMO as follows. Each HMO shall:
 - 1) Submit to the Director for prior approval any proposed changes to the system by which grievances may be filed and reviewed;
 - 2) Maintain records of each grievance, filed with the HMO until the grievance is resolved and for a period of at least 3 years, that includes:
 - A) A copy of the grievance, the date of its filing;
 - B) The date and outcome of all consultations, hearings and hearing findings;
 - C) The date and decisions of any appeal proceedings; and
 - D) The date and proceedings of any litigation;
 - 3) Submit to the Director, in a form prescribed by the Director, a report by March 1 for the previous calendar year that includes at least the following:
 - A) the total number of grievances handled;
 - B) a compilation of causes underlying the grievances;
 - C) the outcomes of the grievances;

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- D) the elapsed time from receipt of the grievance by the HMO until its conclusion; and
 - E) the number of malpractice claims filed and, if those claims have been completely adjudicated, a compilation of causes, disposition, form and amount of any settlements.
- b) Every HMO shall have a grievance committee with the authority to hear and resolve by majority vote grievances submitted to it as provided in subsection (a).
- 1) Notwithstanding any other provisions of this Section, the grievance committee may, but is not required to, hear any grievance that alleges or indicates possible professional liability, commonly known as "malpractice".
 - 2) The committee is not empowered to resolve grievances in any manner, or prescribe any actions, that are in conflict with written policies of the HMO's Governing Body, but the committee may hear such grievances for the purpose of providing input to the Governing Body.
 - 3) The grievance committee shall meet at the main office of the HMO, or other office designated by the HMO if the main office is not within 50 miles of the grievant's home address. Consideration shall be given to the enrollee's request pertaining to the time and date of the meeting. The enrollee shall have the right to attend and participate in the formal grievance proceedings. The enrollee shall have the right to be represented by a designated representative of his or her choice.
 - 4) The filing of a grievance shall not preclude the enrollee from filing a complaint with the [DepartmentDivision](#), nor shall it preclude the [DepartmentDivision](#) from investigating a complaint pursuant to its authority under Section 4-6 of the Act.
- c) The grievance procedures must be fully and clearly communicated to all enrollees and information concerning grievance procedures shall be readily available to the enrollee.
- d) Every HMO shall have simplified procedures for resolving complaints. The

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procedures do not require review of the complaint by the grievance committee, but a log, file, or other similar records must be maintained to identify the general nature of the complaints. Resolution of complaints shall not preclude the enrollees' rightful access to review by the grievance committee of a grievance.

- e) The HMO shall institute procedures that would require grievances to have a determination made by the grievance committee within 60 days from the date the grievance is received by the HMO. A grievance may not be heard or voted upon unless at least 50% of the voting individuals of the committee are enrollees. The determination by the grievance committee may be extended for a period not to exceed 30 days in the event of a delay in obtaining the documents or records necessary for the resolution of the grievance. All requests for documents or records necessary for the resolution of the grievance shall be maintained in the HMO's grievance file.
- f) The grievance procedure shall provide the enrollee with a written acknowledgment of the grievance within 10 business days after receipt by the HMO.
- g) The enrollee shall be notified at the time of the hearing of the name and affiliation of those grievance committee members who are representatives of the HMO.
- h) The HMO shall institute procedures whereby any documentation furnished to the members of the grievance committee shall also be made available to the enrollee not less than 5 business days prior to the hearing of the grievance. The HMO shall not present any evidence without the enrollee having been given the opportunity to be present.
- i) Notification in writing of the determination of the grievance committee shall be mailed to the enrollee within 5 business days after the determination. Notice of the determination made at the final appeal step of the HMO's grievance process shall include a Notice of Availability of the Department that the HMO shall send to its enrollees explaining that the Department is available to respond to their inquiries.
- j) Prior to the resolution of a grievance filed by a subscriber or enrollee, coverage shall not be terminated for any reason that is the subject of the written grievance, except when the HMO has, in good faith, made a reasonable effort to resolve the written grievance through its grievance procedure and coverage is being

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terminated as provided for in Section 5421.111 of this Part.

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

Section 5421.50 Contracts, Administrative Arrangements and Material Modifications

a) Agreements or Contracts

- 1) All sample agreements or contracts, with variable language bracketed, under which any person is delegated management duties or control of the HMO or ~~that~~which transfer a substantial part of any major function of the HMO, including, but not limited to, all reinsurance treaties, all agreements with providers and all administrative service contracts must be submitted to the ~~Department~~Division of Insurance and the HMO must file with the ~~Department~~Division any contract amendments, renewals, addendums thereto, or any change from those originally submitted and any material modification to the application submitted pursuant to Section 1-2 of the Act [215 ILCS 125/1-2] including, but not limited to, extension of service area.
- 2) The Illinois Department of Public Health shall also receive for review copies of all sample agreements with providers, as well as any amendments, addendums or any change from those agreements originally submitted.
- 3) On a quarterly basis, each HMO must submit a list identifying any MCO with which the HMO has a current contract. ~~The~~Such list must contain the name, address and telephone number of the MCO, as well as the name of its Administrator, and must identify the bond or letter of credit issuer as required by subsection (d)(2), along with the expiration date and principal dollar amount for ~~the~~such instrument. The quarterly report shall be due at the ~~Department~~Division within ~~10~~ten days following the end of each quarter.
- 4) All types of written health care provider agreements must contain provisions ~~under which~~whereby the provider shall provide, arrange for, or participate in the quality assurance programs mandated by the Act [215 ILCS 125/2-8(b)], unless the Illinois Department of Public Health certifies that ~~those~~such programs will be fully implemented without any

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participation or action from ~~thesueh~~ contracting provider.

- 5) All provider agreements shall provide for at least 60 days notice by the provider for termination with cause, as defined in ~~thesueh~~ provider agreement, and at least 90 days notice by the provider for termination without cause. The HMO must inform the ~~DepartmentDivision~~ immediately of any known or intended termination, with or without cause, of an MCO.
 - 6) Subscribers must receive notice from the HMO at least 60 days in advance of any termination ~~thatwhich~~ would curtail or eliminate services to subscribers. However, in the event that the HMO receives notice of less than 60 days from any provider for termination of any contract ~~thatwhich~~ would curtail or eliminate services to subscribers, the HMO must provide immediate notice to the subscribers. ~~TheSueh~~ Notice shall include instructions regarding referrals which have been issued and appointments which may be pending.
 - 7) The contractual agreement between the provider and the HMO must contain evidence that the provider has professional liability insurance and that such insurance coverage is effective as of the effective date of such contract. Furthermore, the contract must set forth that the Provider will give at least 15 days advance notice of cancellation of such insurance. In those instances in which the HMO will provide physician services directly through employed physicians and not through contractual arrangement with a provider, the HMO shall provide evidence to the ~~DepartmentDivision~~ that each individual physician has ~~sueh~~ professional liability insurance or that the HMO has ~~sueh~~ coverage on behalf of ~~thesueh~~ employed physicians.
- b) The Director must disapprove any provider agreement if, at any time, he ~~or she~~ finds:
- 1) that the charges to the HMO are based on factors unrelated to the value of providing services to the HMO; ~~or~~
 - 2) that the contract will significantly impact or threaten the financial viability of the HMO; ~~or~~

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- 3) that the provider agreement would transfer substantial control of the HMO or any powers vested in the board of directors, by statute, articles of incorporation or bylaws, or substantially all of the basic functions of the HMO management; ~~or~~
 - 4) that the provider agreement contains provisions contrary to the Illinois Insurance Code; ~~or~~
 - 5) that the provider is or has been affiliated directly or indirectly, through ownership, control, management, reinsurance transactions or other insurance, or business relations with any person or persons known to have been involved in the improper manipulation of assets, accounts or reinsurance; or
 - 6) that the provider agreement does not contain the provisions required by subsections (d) and (e) of this Section.
- c) If the Director disapproves of any provider agreement, notice of ~~that~~~~such~~ action shall be given to the HMO, ~~listing-assigning~~ the reasons ~~for the disapproval~~~~therefor~~ in writing. The Director shall grant any party to the provider agreement a hearing upon request according to Article XXIV [215 ILCS 5/Art. XXIV] of the Illinois Insurance Code.
- d) This subsection shall apply to all HMO agreements with MCOs authorized to furnish health care services, ~~when~~~~where~~ the fees for furnishing, arranging or providing ~~the~~~~such~~ health care services are capitated.
- 1) All ~~such~~-capitated MCO agreements shall contain a provision that states that the MCO will submit, to the HMO, copies of its quarterly financial statements, which shall include the MCO's balance sheet and statements of income and cash flow within 45 days after the end of each fiscal period. In addition, the HMOs shall require the MCO to submit within 90 days after the end of the MCO's fiscal year copies of its audited annual financial statements prepared in accordance with generally accepted accounting principles if available. The ~~Department~~~~Division~~, at its discretion, may require the HMO to submit for inspection by the ~~Department~~~~Division~~ ~~such~~ statements ~~as~~ the HMO has received from the MCO. ~~This~~~~Such~~ information shall be deemed confidential by the ~~Department~~~~Division~~.

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- 2) All ~~such~~ MCO capitated agreements shall contain provisions requiring the disclosure of language whereby the MCO agrees to fully cooperate with, and disclose all relevant information requested by, the HMO's actuaries for the preparation of their opinion in accordance with the Actuarial Standards Board Actuarial Standards of Practice No. 16.
- 3) All MCO capitated agreements shall contain provisions under which ~~whereby~~ the HMO acknowledges that, in the event of the MCO's insolvency, the HMO is secondarily liable as the ultimate risk bearer for unpaid health care services rendered to its enrollees.
- e) Beginning January 1, 2007, all capitated provider agreements between the HMO and its capitated providers shall contain the following hold-harmless clause. To the extent that any provider contract renewed or extended after December 31, 2007 fails to incorporate the hold-harmless clause, the clause shall be deemed incorporated into those contracts by operation of law as of the date of the renewal of execution.

"The provider agrees that in no event, including but not limited to nonpayment by the HMO of amounts due the provider under this contract, insolvency of the HMO or any breach of this contract by the HMO, shall the provider or its assignees or subcontractors have a right to or seek any type of payment from, bill, charge, collect a deposit from, or have any recourse against, the enrollee, persons acting on the enrollee's behalf (other than the HMO), the employer or group contract holder for services provided pursuant to this contract; except for the payment of applicable co-payments or deductibles for services covered by the organization or fees for services not covered by the HMO. The requirements of this clause shall survive any termination of this contract for services rendered prior to such termination, regardless of the cause of such termination. The HMO's enrollees, the persons acting on the enrollee's behalf (other than the HMO), and the employer or group contract holder shall be third party beneficiaries of this clause. This clause supersedes any oral or written agreement now existing or hereafter entered into between the provider and the enrollee, persons acting on the enrollee's behalf (other than the HMO) and the employer or group contract holder."

- f) The procedure to be followed by HMOs for extension of operations into additional counties in Illinois shall be as follows:

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- 1) Upon receipt of certification by the Illinois Department of Public Health, the HMO shall submit a letter to the Director amending its service area. This letter will indicate that all subscription certificates, rates, provider agreements, and any other applicable documents to be used to service the extended area are those previously filed or, if not, new or revised documents will be submitted to the DepartmentDivision for review.
- 2) Each such notification for extension of operations shall be accompanied by a list of the counties in which the HMO is authorized to operate prior to any requested extension of service area.

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

Section 5421.60 Rates

- a) The HMO shall file all schedules of base rates to be used in conjunction with enrollee certificates. The schedules shall be filed with the Director prior to the effective date and will be maintained as a public document by the DepartmentDivision.
- b) When the schedules of base rates are filed, percentage change from the previous filing for the schedules of base rates shall be included.
- c) Upon the request of the Director, the HMO shall submit actuarial documentation for any submitted rates, which shall be stamped "confidential" by the HMO. Documentation shall include, but not be limited to, the major cost components, experience, assumptions, and procedures used to develop the submitted rates. The actuarial documentation shall be deemed confidential and proprietary by the DepartmentDivision unless specific authorization is given by the HMO.

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

Section 5421.100 Solicitation

- a) No HMO, or representative of the HMO, may cause or knowingly permit the use of advertising, solicitation, or any form of evidence of coverage that is untrue, misleading or deceptive.

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- 1) All information required to be disclosed pursuant to this Part shall set out conspicuously and in close conjunction with the statements to which the information relates under appropriate captions of the prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the solicitation as to be confusing or misleading.
 - 2) The format and context of a solicitation of any HMO's plan or program shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.
 - 3) Solicitations shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by employment or by familiarity with insurance, medical terminology or health care plans, shall not be used unless ~~those such~~ words or phrases are otherwise explained in the solicitation.
 - 4) No solicitation shall omit information or use words, phrases, statements, references, or illustrations if an omission of the information or use of the words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving prospective enrollees as to the nature or extent of any benefit payable, loss covered, premium payable or health care service provided.
- b) A detailed description of all training and educational programs provided to solicitors of the health care plan or to any person providing marketing activities shall be submitted to the Director upon application for a Certificate of Authority and any substantive changes in the programs shall be submitted to the Director 15 days prior to the intended effective date of the change.
 - c) All brochures, media scripts, and any other marketing or advertising materials an HMO applying for Certificate of Authority plans to use must be filed with the ~~Department~~ Division. The material must be filed before use and, in the event that the material can obviously not be filed, such as audiovisual presentations, a description of the solicitation activity must be filed.

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- d) An advertisement or solicitation shall not directly or indirectly make unfair or incomplete comparisons of policies, plans, or benefits or comparisons of non-comparable plans or policies of other HMOs or insurers, and shall not disparage competitors, their policies or plans, services or business methods and shall not disparage or unfairly minimize a competing method of marketing insurance or health care services.
- e) No advertisement or marketing material of an HMO shall imply that certification by the ~~Department~~Division is an endorsement of the HMO.
- f) An HMO shall provide its enrollees, no later than at the time of enrollment, or the time the individual contract or evidence of coverage is issued, lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. The lists shall disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:
- NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone number).
- g) Failure to comply with the requirements of this Section shall subject the HMO or its representative to corrective action the Director may order pursuant to Section 4-7 of the Act.

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

Section 5421.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts

- a) Any group contract, evidence of coverage, individual contract, enrollee handbook, enrollment application, identification card or other form that affects the terms and conditions applicable to the subscriber or enrollee in the provision of health care

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services must be filed with and approved by the Director prior to use in accordance with the requirements of Section 5421.112 of this Part and Section 4-13 of the Act. The HMO shall issue to each subscriber or enrollee a group contract, evidence of coverage, or individual contract. Any conflicting information between the valid current document referenced above issued to the subscriber or enrollee and the current group contract shall be interpreted according to whichever is most beneficial to the subscriber or enrollee. Any group contract, evidence of coverage, or individual contract shall provide for the rendering of health care services as defined in that document for either a specific period of not less than 12 months from the date of issuance or for another period mutually agreed to by the HMO and the group or individual contractholder; and shall provide for renewal on a basis mutually agreed to by both parties, unless the HMO has given 31 days written notice of nonrenewal prior to the renewal date of the contract.

- b) A detailed statement of any exceptions, exclusions or limitations shall be set forth in the group contract, evidence of coverage, and individual contract for any type of health care service to be excepted. Exception, exclusions or limitations shall appear with the same prominence in the group contract, evidence of coverage and individual contract as any benefit.
- c) The group contract, evidence of coverage, and individual contract shall set forth a detailed statement of the terms and conditions of maternity benefits and any related exceptions, exclusions, limitations, copayments and deductibles. Exceptions, exclusions, limitations, copayments and deductibles applicable to prenatal and post-natal care shall be covered no differently than any other covered health care services provided pursuant to the contract, with the exception of a limitation for coverage of routine prenatal care or delivery when the enrollee is outside the service area against medical advice, except when the enrollee is outside of the service area due to circumstances beyond her control, may be included in the group contract and evidence of coverage.
- d) Entire Contract. The group contract, evidence of coverage and individual contract shall contain a statement that the group contract evidence of coverage and individual contract, all applications, and any amendments shall constitute the entire agreement between the parties. No portion of the charter, by-laws or other document of the HMO shall be part of a contract or evidence of coverage unless set forth in full in the document or attached to it.

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- e) Eligibility Requirements. The group contract, evidence of coverage and individual contract shall contain eligibility requirements indicating the conditions that must be met to enroll in a health care plan, the limiting age for enrollees and eligible dependents including the effects of Medicare eligibility, and a clear statement regarding coverage of newborn children as set forth in Sections 4-8 and 4-9 of the Act.
- f) Benefits and Services Within the Service Area. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available within the HMO's designated service area.
- g) Emergency Care Services. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available for emergencies 24-hours a day, 7 days a week, including disclosure of any restrictions on emergency care services. No group contract, evidence of coverage or individual contract shall limit the coverage of emergency services within the service area to those providers having a contract with the HMO.
- h) Out of Area Benefits and Services. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available out of the HMO's designated service area.
- i) Deductibles and Copayments. An HMO may require copayments of enrollees as a condition for the receipt of specific health care services. Deductibles and copayments shall be the only allowable charge, other than premiums, assessed enrollees. Copayments and deductibles shall be for specific dollar amounts or for specific percentages of the cost of the health care services. No combination of deductibles and copayments for basic health care services may exceed 50% of the usual and customary fee of the service to the HMO and must be waived when, in a contract year, deductibles and copayments paid for the receipt of basic health care services exceed ~~\$6,000~~~~\$3,000~~ per enrollee or ~~\$12,000~~~~\$6,000~~ per family. Deductibles and copayments applicable to supplemental health care services or pre-existing conditions are not subject to this annual limitation. Nothing within this subsection shall preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments.
- j) Pre-existing Conditions. An HMO may impose deductible and copayment pre-existing condition limitations as a condition to receiving health care services. A

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pre-existing condition shall not be defined more restrictively than a condition for which medical advice or treatment was recommended by a physician or received from a physician within a one year period preceding the effective date of coverage under the health care plan or the existence of symptoms that, in the opinion of a legally qualified physician, would have caused an ordinarily prudent person to seek diagnosis, care or treatment within a one year period preceding the effective date of coverage under the health care plan. The condition may only be limited for a period not to exceed one year from the effective date of coverage.

- k) Cancellation. The group contract, evidence of coverage, and individual contract shall contain the conditions upon which cancellation may be effected by the HMO or the enrollee as set forth in Section 5421.111 ~~of this Part~~.
- l) Reinstatement. The group contract, evidence of coverage, and individual contract shall contain the conditions of the enrollee's right to reinstatement.
- m) Grace Period. A group contract or individual contract shall provide for a grace period for the payment of any premium, except the first, during which coverage shall remain in effect if payment is made during the grace period. The grace period for a group contract shall not be less than 10 days. The grace period for an individual contract shall not be less than 31 days. During the grace period, the HMO shall remain liable for providing the services and benefits contracted for; the subscriber shall remain liable for the payment of the premium for the time coverage was in effect during the grace period and the enrollee shall remain liable for the payment of any applicable share of the premium, for the time coverage was in effect, as well as for any copayments owed.
- n) No group contract, or evidence of coverage, or individual contract may be delivered in this State unless the subscriber and/or enrollee is provided written notice required by Section 143c of the Illinois Insurance Code [215 ILCS 5/143c].
- o) Right to Examine Contract. An individual contract, with the exception of an HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall contain a provision stating that an enrollee who has entered into an agreement with an HMO shall be permitted to return the individual contract within ten days after receiving it and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason. If the individual contract is returned to the HMO or to its representative through

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whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for such enrollee or dependent by the HMO during the ~~10 ten~~-day examination period, the enrollee shall not be permitted to return the contract and receive a refund of the premium paid.

- p) An HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall be delivered to the enrollee at least 15 days prior to the effective date of the contract. The enrollee shall be permitted to return the HMO Medicare contract prior to the effective date and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason, provided the enrollee complies with the disenrollment procedures of Title XVIII of the Social Security Act, as amended from time to time.
- q) Every HMO will provide to every enrollee of the HMO information that generally describes the philosophy, functions and organization of the HMO and related institutions, and specific information that describes the appropriate use of the HMO's services, including a general description of benefits and limitations. The HMO shall include in its enrollee information a description of the HMO's grievance procedure, directions for filing a grievance, and a Notice of Availability of the Department.
- r) Every HMO shall provide enrollees with an identification card that must prominently display the following information:
- 1) the words "Health Maintenance Organization" or "HMO";
 - 2) disclaimer language concerning an enrollee's unauthorized use of providers not selected by the HMO;
 - 3) a current telephone number for the enrollees to use when health care services are required outside of normal office hours; and
 - 4) the name of all enrollees entitled to coverage, along with all other mandated information, if the HMO does not issue a card to each enrollee who is entitled to coverage. In ~~thesesueh~~ situations, at least two cards must be issued to the primary enrollee upon enrollment and the HMO must issue additional cards to all enrollees at the request of the enrollee for no additional charge. Notification of the right to order additional cards for

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no additional charge must be included with information required to be disseminated to enrollees under subsection (q).

- s) Enrollment Application. No individual contract shall be issued except upon the signed enrollment application of the enrollee for whom coverage is being sought. Any information or statement of the applicant shall appear on the application in the form of interrogatories by the HMO and answers by the applicant. The enrollee shall not be bound by any statement made within an application for health care coverage unless a copy of the application is attached to the individual contract. Group enrollment applications must be maintained on file by the HMO; otherwise, disputes arising from statements made within the applications will be resolved in the enrollee's favor. Except for those instances involving fraud or material misrepresentation, an HMO's failure to investigate incomplete or conflicting answers on an enrollment application shall estop the HMO from subsequently denying coverage on the basis of those responses.
- t) Coordination of Benefits-
- 1) HMOs are permitted, but not required, to adopt coordination of benefits provisions to avoid over insurance and to provide for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.
 - 2) If an HMO adopts coordination of benefits, the provision must be consistent with the coordination of benefits requirements set forth in 50 Ill. Adm. Code 2009.
 - 3) To the extent necessary for an HMO to meet its obligations as a secondary carrier under 50 Ill. Adm. Code 2009, and where an enrollee has established a credit within the reserve bank, the HMO shall make payments for services that are:
 - A) received from non-participating providers;
 - B) provided outside its services areas; or
 - C) not covered under the terms of health care plan.
- u) Dependents-termination of coverage-disability and dependency, proof-

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application. Every group contract, evidence of coverage, or individual contract that provides that coverage of a dependent person of an enrollee shall terminate upon attainment of the limiting age for dependent persons shall comply with the requirements of Section 4-9.1 of the Act.

v) Conversion of Coverage-

- 1) The group contract and evidence of coverage shall contain a conversion provision that provides that each enrollee has the right to convert coverage to an individual or group HMO contract in the following circumstances:
 - A) upon cancellation of eligibility for coverage under a group contract~~;~~
 - B) upon cancellation of the group contract~~;~~ or
 - C) upon non-renewal of the group contract.
- 2) The conversion contract shall cover the enrollee and his/her eligible dependents who were covered by the group contract on the date of cancellation or non-renewal of coverage. To obtain the conversion contract, an enrollee shall submit a written application and the application premium payment within 31 days after the date the enrollee's coverage is cancelled.
- 3) The HMO may require copayments and deductibles under a conversion contract that differ from the group contract.
- 4) A conversion contract shall not be required to be made available if:
 - A) The cancellation of the enrollee's coverage occurred for any of the reasons listed in Section 5421.111(a)~~-of this Part;~~
 - B) The enrollee is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act;
 - C) The enrollee is covered by similar hospital, medical, or surgical benefits under State or federal law;

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- D) The enrollee is covered by similar hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group whether on an insured or uninsured basis;
 - E) The enrollee is covered for similar benefits through individual coverage;
 - F) The enrollee has not been continuously covered during the three-month period immediately preceding cancellation of that person's coverage;
 - G) The enrollee has moved outside of the service area of the health maintenance organization;
 - H) The cancellation of the enrollee's coverage occurred in relation to the HMO being placed in rehabilitation or liquidation proceedings pursuant to Section 5-6 of the Act; or
 - I) The group contract has been discontinued in its entirety and there is a succeeding carrier providing coverage to the group in its entirety.
- 5) Benefits or coverage shall be considered "similar" if coverage is provided for at least 12 months under comprehensive type medical coverage.
- 6) Notwithstanding subsection (v)(4)(C), (D), (E), or (I), if the enrollee or any of his or her covered dependents has a pre-existing condition, and the enrollee is covered by similar hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, and the coverage does not cover pre-existing conditions, then the enrollee may continue conversion coverage for the individual with the pre-existing condition until the enrollee's or dependent's pre-existing condition is covered under the succeeding plan.
- 7) The conversion contract shall provide as a minimum to its enrollees basic health care services.
- 8) The conversion contract shall begin coverage of the enrollee and any dependents formerly covered under the group contract on the date of

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termination from the group or the former individual contract.

- 9) Coverage shall be provided without requiring evidence of insurability and shall not impose any pre-existing condition limitations or exclusions other than those remaining unexpired under the contract from which conversion is exercised.
- 10) Prior to the issuance of a conversion contract, the enrollee must be notified in writing that the election of any conversion contract will terminate the individual's federal eligibility for coverage under the Illinois Comprehensive Health Insurance Plan.
- w) Discrimination between individuals of the same class in the terms and conditions of the health care plan, or in the amount charged for coverage under a health care plan except whenwhere the rate differential is based on sound actuarial principles, or in any other manner whatsoever is prohibited.
- x) ~~Grievance Procedure-~~
The group contract, evidence of coverage, and individual contract shall set forth a full description of the HMO grievance procedure required by Section 5421.40 ~~of this Part.~~

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

Section 5421.112 Form Filing Requirements

Group contracts, evidences of coverage, individual contracts, enrollment applications or other forms that affect the terms and conditions applicable to the enrollee in the provision of health care services must be filed with the DepartmentDivision pursuant to 50 Ill. Adm. Code 916. If the form is a revised version of a previously approved form, the HMO must provide the number of the previously approved form and the date it was approved by the DepartmentDivision, and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved.

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

Section 5421.113 Point of Service Plan Requirements

- a) The filing as described in this subsection shall be comprised of an HMO filing

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and an indemnity filing. The filing shall be coordinated by the HMO. The filing must contain reasonable financial incentives for point of service members to utilize HMO services provided or arranged by the designated HMO primary care physician and shall include:

- 1) Copies of all policy forms necessary to implement the point of service product, including the member handbook used to integrate the services provided by the HMO and the benefits provided by the indemnity carrier.
 - 2) Enrollment application and member identification card disclosing the names of both the HMO and indemnity carrier.
 - 3) Solicitation material.
 - 4) Copies of all contracts required by Section 5421.50 ~~of this Part~~ between the HMO and affiliated indemnity carrier detailing their respective responsibilities and obligations in offering a point of service product.
 - 5) The HMO shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the affiliated indemnity carrier will impact on the HMO's rates and underlying utilization assumptions. The documentation shall be deemed confidential by the ~~Department~~Division unless specific authorization is given by the HMO.
 - 6) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment.
 - 7) A comparison of benefits offered by the HMO carrier and the indemnity carrier.
- b) Out-of-network claims shall be filed with the HMO. The HMO is responsible for coordinating payment of all claims.
 - c) Covered services rendered by a participating physician without proper authorization shall be covered at the out-of-network benefit level.
 - d) For purposes of coordination of benefits, the two policies comprising the point of

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service product shall be considered to be one policy.

- e) For purposes of conversion and State continuation, the HMO shall provide each enrollee who has a POS plan the right to convert to either an HMO option or indemnity option. The HMO may, but is not required to, offer the enrollee the right to continue under a POS option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, then the plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.

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

Section 5421.141 Producer Licensing Requirements

- a) HMO producer means an individual who solicits, negotiates, effects, procures, renews or continues enrollment in an HMO. The term HMO "producer" shall not include:
- 1) any regular salaried officer or employee of an HMO or of a licensed HMO producer who devotes substantially all of his or her time to activities other than the solicitation of applications for HMO membership and receives no commission or other compensation directly dependent upon the business obtained and who does not solicit or accept from the public applications for membership;
 - 2) employers or their officers or employees or the trustees of any employee benefit plan to the extent that such employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits involving the use of membership in an HMO; provided that the employers, officers, employees, or trustees are not in any manner compensated directly or indirectly by the HMO issuing the HMO membership;
 - 3) banks or their officers and employees, to the extent that the banks, officers, and employees collect and remit charges by charging same against accounts of depositors on the orders of depositors.

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- b) No persons may act as or hold themselves out to be an HMO producer unless duly licensed in accordance with the requirements of this Part.
- c) An individual applying for an HMO producer's license shall make application on a form specified by the ~~Department~~~~Division~~ and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the Director shall find that the individual:
- 1) Is at least 18 years of age;~~;~~
 - 2) Has not committed any act that is grounds for denial, suspension or revocation pursuant to Section 505.1 of the Illinois Insurance Code [215 ILCS 5/505.1];~~;~~
 - 3) Has successfully passed the Class 1(b) examination as required by Section 494.1 of the Illinois Insurance Code [215 ILCS 5/494.1].
- d) The provisions of Article XXXI of the Illinois Insurance Code [215 ILCS 5/Art. XXXI] and the rules promulgated under that statute (50 Ill. Adm. Code: Chapter I, Subchapter ii) shall be applicable to all HMO producers.

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

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- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
603.60	Amendment
603.75	Amendment
- 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 in Section 603.60 from 5 micrograms to 2 micrograms per milliliter of serum or plasma and adopts the RCI recommended penalties for phenylbutazone, flunixin and ketoprofen, class 4 drugs. In Section 603.75, the RCI threshold level of 100 nanograms per milliliter for caffeine is being added. It is recognized that there are drugs which unavoidably become part of the food supply or environment of the horse and could be found in the horse due to its close association with humans. Although caffeine, a Class 2 drug, may be found in a horse due to environmental contamination or inadvertent exposure, no sample shall exceed the level of 100 nanograms per milliliter when tested post race.
- 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:

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Mickey Ezzo
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: July 2012

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

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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
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 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August

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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, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 8967, effective June 1, 2012; amended at 36 Ill. Reg. 12811, effective August 1, 2012; amended at 36 Ill. Reg. _____, effective _____.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels

- 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),

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flunixin, pyrilamine, isoxsuprine and ketoprofen.

- 3) The threshold level of phenylbutazone shall be less than or equal to 2.05-0 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.~~

~~A)B)~~ ~~In~~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 2.15-0 mcg/ml but less than or equal to 5.0+0-0 mcg/ml of serum or plasma, the trainer and any other responsible party shall be subject to the following penalties ~~absent mitigating circumstances~~:

- i) first offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$500~~fine of \$250~~;
- ii) second offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$750 and the owner shall be notified~~fine of \$500~~;
- iii) third or subsequent offense within a 365 day period, minimum fine of \$500 to a maximum fine of \$1,000 and the purse shall be redistributed~~\$1,000 and a 15-day suspension~~.

~~B)C)~~ ~~In~~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 5.1+0-0 mcg/ml of serum or plasma, the trainer and any other responsible party shall be subject to the following penalties absent mitigating circumstances:

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- i) first offense within a 365 day period, minimum fine of \$1,000, \$500 and the purse shall be redistributed;
 - ii) second offense within a 365 day period, minimum fine of \$1,500 \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense within a 365 day period, minimum fine of \$2,500, a 30 day suspension, ~~and~~ the purse shall be redistributed and the owner shall be fined a minimum of \$5,000.
- 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 within a 365 day period, minimum penalty of a written warning to a maximum fine of \$500~~fine of \$250~~;
 - ii) second offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$750 and the owner shall be notified~~fine of \$500~~;
 - iii) third or subsequent offense within a 365 day period, minimum fine of \$500 to a maximum fine of \$1,000 and the purse shall be redistributed~~\$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

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following penalties, ~~within a 365 day period, and~~ absent mitigating circumstances:

- i) first offense within a 365 day period, minimum fine of \$1,000~~\$500~~ and the purse shall be redistributed;
 - ii) second offense within a 365 day period, minimum fine of \$1,500~~\$1,000~~, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense within a 365 day period, minimum fine of \$2,500, a 30 day suspension, ~~and~~ the purse shall be redistributed and the owner shall be fined a minimum of \$5,000.
- 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).
- 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.

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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)

- 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; December 2011 version 3.00; 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.

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- 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 at 36 Ill. Reg. _____, effective _____)

Section 603.75 Environmental Contaminants

The following drugs are recognized as substances that unavoidably become part of the food supply or environment of the horse.

- a) Benzoyllecgonine (a metabolite of cocaine):
 - 1) Each time the laboratory reports benzoyllecgonine less than 150.0 ng/ml, the Stewards shall conduct an inquiry. The presence of benzoyllecgonine in the horse shall be considered reasonable cause to order a drug screen on the trainer, groom or any other licensed person who cares for the horse pursuant to Section 508.50.
 - 2) Laboratory reports of benzoyllecgonine, greater than or equal to 150.0 ng/ml, shall be treated as a Class 1 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; December 2011 version 3.00; this incorporation includes no later amendments or editions).
- b) Dimethyl Sulfoxide (DMSO):

The test level of DMSO, greater than or equal to 500 mcg/ml, in urine shall be considered a violation of Section 603.50 and the trainer shall receive a fine of not less than \$500 and the purse shall be redistributed.
- c) Caffeine:

Laboratory reports of caffeine greater than or equal to 100 ng/ml of serum or plasma shall be treated as a Class 2 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511;

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December 2011 version 3.00; this incorporation includes no later amendments or editions).

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of Part: Personnel
- 2) Code Citation: 26 Ill. Adm. Code 212
- 3) Section Number: 212.270 Proposed Action:
Amendment
- 4) Statutory Authority: Section 1A-8 (9) of the Illinois Election Code [10 ILCS 5/12A]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes procedures to be used by the SBEL to appoint members of the Grievance Review Committee.
- 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 the 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 create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Steven S. Sandvoss, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield, IL 62708

217/782-0608
- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses 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 because: at the time the regulatory agenda was required to be filed, the need for this rulemaking was not anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONSPART 212
PERSONNEL

Section	
212.210	Introduction
212.214	Position Classification and Compensation
212.218	Application and Appointment
212.222	Work Schedule and Attendance
212.226	Continuous Service
212.230	Personnel Records and Performance Reviews
212.234	Probationary Status
212.238	Promotion
212.242	Employee Transfer
212.246	Demotion
212.250	Layoff
212.254	Voluntary Reduction
212.258	Resignation and Reinstatement
212.262	Employee Conduct
212.266	Discipline and Discharge
212.270	Grievance Procedure
212.274	Sick Leave
212.278	Vacation Leave
212.282	Leave for Personal Business
212.286	Leaves of Absence
212.290	Holidays
212.294	Overtime
212.298	Interpretation and Application of Rules
212.299	Savings Clause

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

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 5534, effective March 31, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 13754, effective August 25, 2005; amended at 36 Ill. Reg. _____, effective _____.

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Section 212.270 Grievance Procedure

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

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e) Grievance Procedure – Steps:

- 1) Step 1: A grievant shall submit the grievance to the appropriate Director in writing, including the requested resolution to the grievance. The Director shall note the date and time upon receipt of the grievance and shall, within five working days after the grievance is filed, issue a written decision and serve a copy of the decision in person upon the grievant and place a copy of the decision in the employee's personnel file.
- 2) Step 2: If the grievance is not satisfactorily resolved or no answer is given within the time limit set forth in Step 1, the grievant may submit, within 10 calendar days from the date the Director's decision was due, to the Executive Director a copy of the written statement of grievance submitted in Step 1, along with a request for a grievance hearing.

f) Grievance Review Committee:

- 1) ~~The General Counsel shall be the Chair of the Grievance Review Committee. In the absence of the General Counsel, the Executive Director or Assistant Executive Director shall appoint a Chair. The Chair, no later than five working days following receipt of an employee's request for a grievance hearing, shall appoint a Grievance Review Committee. The Committee shall consist of three members, and shall include the Human Resources Manager. Committee members must have experience or knowledge in the areas of personnel administration and employee relations.~~ The Director or the immediate supervisor of the grievant shall not be appointed to the Committee. If the Chair is a party to the grievance or is unavailable, the Executive Director shall designate another committee member to chair the Grievance Review Committee. ~~If the Human Resources Manager is a party to the grievance or is unavailable, the Chair shall appoint another member.~~
- 2) Immediately upon appointment of the Committee, the Chair shall designate the location, time and date for hearing, which shall be no later than 20 working days after receipt of the employee's request for a grievance hearing. The grievant shall promptly be notified in person or by certified mail, return receipt requested, of the time, date and place of the hearing.

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

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- 1) Heading of the Part: Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 7030
- 3) Section Number: 7030.30 Proposed Action:
Amendment
- 4) Statutory Authority: Sections 1.1 and 16 of the Workers' Compensation Act [820 ILCS 305/1.1, 16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment addresses an audit finding set forth by Auditor General William Holland in the audit directed pursuant to House Resolution 131 of the 97th General Assembly. Specifically, the audit found that the current version of Section 7030.30 conflicts with the changes of Public Act 97-18. Public Act 97-18 provided that the Canons of Judicial Conduct as adopted by the Illinois Supreme Court apply to the hearing and non-hearing conduct of the Arbitrators and Commissioner. Thus, these proposed changes to Section 7030.30 align the bases for disqualification and also the remittal of a disqualification by and Arbitrator or Commissioner with the provisions of Canon 3 of the Canons of Judicial Conduct.

In addition, the proposed amendment creates a formalized process for the filing of a Petition for Substitution of an Arbitrator or Commissioner. There is one published Appellate Court opinion that calls on the Commission to promulgate such a rule, *Preston v. Industrial Comm'n*, 332 Ill. App. 3d 708 (3rd Dist. 2002). In that case, a Commissioner who was subject to a petition to disqualify sat on the panel that ruled on the Petition. While the majority found no error in the hearing process, the Court recommended that the Commission promulgate a rule to address the procedural handling of petitions to disqualify Commissioners.

- 6) Any published studies or reports, along with sources of underlying data, that were used compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendment does not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- Kimberly B. Janas
Secretary of the Commission
Illinois Workers' Compensation Commission
100 W. Randolph Street Suite 8-200
Chicago, IL 60601
- Phone: 312/814.6559
kimberly.janas@illinois.gov
Fax: 312/814.3520
- 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: July 2012

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE

CHAPTER II: WORKERS' COMPENSATION~~INDUSTRIAL~~ COMMISSIONPART 7030
ARBITRATION

Section	
7030.10	Arbitration Assignments
7030.20	Setting a Case for Trial
7030.30	Disqualification of Commissioners and Arbitrators
7030.40	Request for Hearing
7030.50	Subpoena Practice
7030.60	Depositions
7030.70	Rules of Evidence
7030.80	Briefs, Arbitrators' Decisions
7030.90	Opening and/or Closing Statements
7030.100	Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305] and of the Workers' Occupational Diseases Act [\[820 ILCS 310\]](#).

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency amendment at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency amendment at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 20 Ill. Reg. 4053, effective February 15, 1996; amended at 36 Ill. Reg. _____, effective _____.

Section 7030.30 Disqualification of Commissioners and Arbitrators

- a) Except as otherwise provided in the Workers' Compensation Act, the Canons of Judicial Conduct as adopted by the Supreme Court of Illinois govern the hearing and non-hearing conduct of members of the Commission and Arbitrators. The Commission may set additional rules and standards, not less stringent than those

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rules and standards established by the Code of Judicial Conduct, for the conduct of Arbitrators. [820 ILCS 305/1.1]~~No Arbitrator or Commissioner financially or otherwise interested in the outcome of any litigation, or any question connected therewith, shall participate in any manner in the adjudication of said cause, including the hearing of settlement contracts for lump sum petitions.~~

- b) ~~An Arbitrator or Commissioner shall disqualify himself or herself in a proceeding, including the consideration of a settlement contract, in which the Arbitrator's or Commissioner's impartiality might reasonably be questioned, including but not limited to instances in which~~Examples of instances where disqualification by an Arbitrator or Commissioner should occur include, but are not limited to the following:
- 1) he or she has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceedings;
 - 2) he or she served as an attorney in the matter in controversy, or an attorney with whom the Arbitrator or Commissioner previously practiced law served during that association as an attorney concerning the matter;
 - 3) he or she is a material witness concerning the matter;
 - 4) he or she was, within the preceding ~~three~~two years, associated in the private practice of law with any law firm or attorney currently representing any party in the controversy (provided that referral of cases when no monetary interest was retained shall not be deemed an association for the purposes of this subsection (b)(4)) or, for a period of seven years following the last date on which the Commissioner or Arbitrator represented any party to the controversy while the Commissioner or Arbitrator was an attorney engaged in the private practice of law;
 - 5) he or she was, within the preceding ~~three~~two years, employed by any party to the proceeding or any insurance carrier, service or adjustment company, medical or rehabilitation provider, labor organization, or investigative service involved in the matter~~claim~~;
 - 6) he or she or his or her spouse, or a person within the third degree of

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relationship (pursuant to the civil law system) to either of them, or the spouse of ~~that~~ person:

- A) is a party to the proceeding, or an officer, director or trustee of a party;
 - B) is acting as an attorney in the proceeding;
 - C) is known by the Arbitrator or Commissioner to have a more than de minimis interest that could be substantially affected by the proceedings~~substantial financial interest in the subject matter in controversy~~;
 - D) is to the Arbitrator's or Commissioner's knowledge likely to be a material witness in the proceeding;
- 7) he or she negotiated for employment with a party, a party's attorney or insurance carrier or service or adjustment company, in a matter in which the Arbitrator or Commissioner is presiding or participating in an adjudicative capacity;
- 8) the Arbitrator or Commissioner knows that he or she, individually or as a fiduciary, or the Arbitrator's spouse, parent or child wherever residing, or any other member of the Arbitrator's or Commissioner's family residing in the Arbitrator's or Commissioner's household, has an economic interest in the subject matter in controversy or in a party to the proceeding, or has any other more than de minimis interest that could be substantially affected by the proceeding.
- c) An Arbitrator or Commissioner shall keep informed about the Arbitrator's or Commissioner's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the Arbitrator's or Commissioner's spouse and minor children residing in the Arbitrator's or Commissioner's household.
- de) Remittal of Disqualification
An Arbitrator or Commissioner disqualified under subsection (b)~~subsections (b)(5), (b)(6) or (b)(7) above~~, may disclose on the record the basis of the disqualification and may ask the parties and their lawyers to consider, out of the

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presence of the Arbitrator or Commissioner, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party. If, based on such disclosure, the parties and attorneys, without participation by the Arbitrator or Commissioner independently of the Arbitrator's or Commissioner's participation, all agree in writing that the Arbitrator or Commissioner should not be disqualified, and the Arbitrator or Commissioner is then willing to participate Arbitrator's or Commissioner's interest is immaterial, the Arbitrator or Commissioner may participate in the proceeding. The agreement signed by all parties and all attorneys shall be made a part of the record of the proceeding.

ed) Reassignment

1) Cases on Arbitration

A) When~~Where~~ an Arbitrator withdraws from a case and the venue of thesaid case arises in Cook County, it shall be the duty of the Arbitrator to notify the ~~Industrial~~ Commission, whose function it shall be to reassign the~~transfer said~~ case to a new Arbitrator chosen randomly from all the Arbitrators in Cook County.

B) When~~Where~~ an Arbitrator withdraws from a case and the venue of thesaid case arises outside Cook County, it shall be the duty of the Arbitrator to notify the ~~Industrial~~ Commission, whose function it shall be to reassign the~~transfer said~~ case to a new Arbitrator in the arbitration zone~~nearest contiguous geographical territory~~.

2) Cases on Review

When a Commissioner withdraws from a case, it shall be the duty of the Commissioner to notify the ~~Industrial~~ Commission, whose function it shall be to transfer the case to a Commissioner, representative of the same statutorily designated class, sitting on a panel other than that on which the withdrawing Commissioner sits.

f) Petitions for Substitution

1) Cases on Arbitration

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- A) Every application for a substitution of Arbitrator shall be made by a petition setting forth the specific cause for substitution. The petition shall be verified by the affidavit of the applicant.
- B) Upon filing of a petition for substitution of Arbitrator, a hearing to determine whether cause exists shall be conducted as soon as possible by an Arbitrator other than the Arbitrator named in the petition. The Arbitrator named in the petition need not testify but may submit an affidavit if the Arbitrator wishes. If the petition is granted, the case shall be reassigned as set forth in subsection (e)(1) of this Section. If the petition is denied, the case shall be assigned back to the Arbitrator named in the petition.

2) Cases on Review

- A) Every application for a substitution of Commissioner shall be made by a petition setting forth the specific cause for substitution. The petition shall be verified by the affidavit of the applicant.
- B) Upon filing of a petition for substitution of Commissioner, a hearing to determine whether cause exists shall be conducted as soon as possible by a Commissioner of the same designation as the Commissioner named in the petition. The Commissioner named in the petition need not testify but may submit an affidavit if the Commissioner wishes. If the petition is granted, the case shall be reassigned as set forth in subsection (e)(2). If the petition is denied, the case shall be assigned back to the original panel including the Commissioner named in the petition.

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

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- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 50 Ill. Adm. Code 7110
- 3) Section Number: 7110.90 Proposed Action: Amendment
- 4) Statutory Authority: Sections 16 and 8.2 of the Workers' Compensation Act [820 ILCS 305/16; 820 ILCS 305/8.2]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment implements Section 8.2(a-3) of the Workers' Compensation Act by specifying that when a prescription dispensed outside of a licensed pharmacy is repackaged, the Average Wholesale Price used to determine the maximum reimbursement shall be the Average Wholesale Price for the underlying drug product, as identified by its **National Drug Code (NDC)** from the original labeler.

Pursuant Section 8.2(a-3) of the Act, only prescriptions dispensed outside of a licensed pharmacy are subject to a fee schedule. The fee schedule sets the maximum reimbursement levels for these prescriptions. For prescriptions dispensed outside of a licensed pharmacy, Section 8.2(a-3) provides that the fee schedule shall not exceed the Average Wholesale Price, plus a dispensing fee of \$4.18. Average Wholesale Price is determined by the NDC set forth in Medispan.

The proposed rulemaking addresses a practice known as "repackaging", which means that the prescription will be purchased and then repackaged in different quantities. It is then given a new NDC number with a higher Average Wholesale Price. Thus, the "repackaging" avoids the original NDC from the original labeler. "Repackaged" drugs are typically dispensed by physicians in their offices.

- 6) Any published studies or reports, along with sources of underlying data, that were used compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
7100.60	Amendment	36 Ill. Reg. 3164; 3/2/12
7100.90	Amendment	36 Ill. Reg. 3164; 3/2/12

- 11) Statement of Statewide Policy Objectives: The proposed amendment does not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Kimberly B. Janas
Secretary of the Commission
Illinois Workers' Compensation Commission
100 W. Randolph Street Suite 8-200
Chicago, IL 60601

Phone: 312/814.6559
kimberly.janas@illinois.gov
Fax: 312/814.3520

- 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: July 2012

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE

CHAPTER II: ILLINOIS WORKERS' COMPENSATION COMMISSION

PART 7110
MISCELLANEOUS

Section	
7110.5	Definitions
7110.10	Vocational Rehabilitation
7110.20	Petitions under Sections 19(h), 8(a), and 7(a) of the Act
7110.30	Commission Meetings: Minutes
7110.40	Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment
7110.50	Petitions under Section 19(o) of the Act
7110.60	Distribution of Commission Handbook
7110.70	Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care
7110.80	Rate Adjustment Fund and Second Injury Fund Contributions: Compliance
7110.90	Illinois Workers' Compensation Commission Medical Fee Schedule

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 5533, effective May 12, 1981; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2352; emergency amendment at 14 Ill. Reg. 4929, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13161, effective August 1, 1990; emergency amendment at 30 Ill. Reg. 1912, effective February 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11743, effective June 22, 2006; amended at 33 Ill. Reg. 2850, effective February 1, 2009; emergency amendment at 34 Ill. Reg. 10222, effective July 6, 2010, for a maximum of 150 days; emergency rule repealed by emergency amendment at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days; amended at 36 Ill. Reg. _____, effective _____.

Section 7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule

- a) In accordance with Sections 8(a), 8.2 and 16 of the Workers' Compensation Act [820 ILCS 305/8(a), 8.2 and 16] (the Act), the Illinois Workers' Compensation Commission Medical Fee Schedule, including payment rates, instructions,

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guidelines, and payment guides and policies regarding application of the schedule, is adopted as a fee schedule to be used in setting the maximum allowable payment for a medical procedure, treatment or service covered under the Act. The fee schedule is published on the Internet at no charge to the user via a link from the Commission's website at www.iwcc.il.gov. The fee schedule may be examined at any of the offices of the Illinois Workers' Compensation Commission.

- b) The payment rates for procedures, services or treatments in the fee schedule were established in accordance with Section 8.2 of the Act by determining 90% of the 80th percentile of charges utilizing health care provider and hospital charges from August 1, 2002 through August 1, 2004. The charges were adjusted by the Consumer Price Index-U for the period August 1, 2004 through September 30, 2005. The payment rates in the fee schedule are designated by geozip (geographic area in which all zip codes have the same first 3 digits).
- c) The fee schedule applies to any medical procedure, treatment or service covered by the Act and rendered on or after February 1, 2006, regardless of the date of injury.
- d) Under the fee schedule, the employer pays the lesser of the rate set forth in the schedule or the provider's actual charge. If an employer or insurance carrier contracts with a provider for the purpose of providing services under the Act, the rate negotiated in the contract shall prevail.
- e) Whenever the fee schedule does not set a specific fee for a procedure, treatment or service in the schedule, the amount of reimbursement shall be at 76% of actual charge, except where this Section provides that revenue codes (codes that identify a specific accommodation or ancillary charge on a UB-04/CMS 1450 uniform billing form used by hospitals) are to be deducted from the charge and reimbursed at 65% of charge billed at the provider's normal rates under its standard chargemaster. A standard chargemaster is the provider's list of charges for procedures, services and supplies used to bill payers in a consistent manner.
- f) Reimbursement under the fee schedule for a procedure, treatment or service, as designated by the geozip where the treatment occurred, shall be based on the place of service.
- g) Out-of-State Treatment

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- 1) If the procedure, treatment or service is rendered outside the State of Illinois, the amount of reimbursement shall be the greater of 76% of actual charge or the amount set forth in a workers' compensation medical fee schedule adopted by the state in which the procedure, treatment or service is rendered, if such a schedule has been adopted. Charges for a procedure, treatment or service outside the State shall be subject to the instructions, guidelines, and payment guides and policies in this fee schedule.
 - 2) Where the charges are for facility fees (ambulatory surgical treatment center, hospital inpatient (standard and trauma), and hospital outpatient services), the following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster.
- h) The fee schedule includes the following service categories:
- 1) Ambulatory Surgical Treatment Center (ASTC)
 - A) This schedule applies to licensed ambulatory surgical treatment centers as defined by the Illinois Department of Public Health (77 Ill. Adm. Code 205.110).
 - B) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.
 - C) This schedule provides the maximum fee schedule amount for surgical services administered in an ASTC setting for codes 10021 through 69990. The schedule is a partial global reimbursement schedule in that all charges rendered during the operative session are subject to a single fee schedule amount, except as provided in subsections (h)(1)(D) and (h)(1)(F).

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- D) The following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster.
 - E) All professional services performed in an ASTC setting are subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).
 - F) This schedule does not apply to the professional or technical components of radiology and pathology and laboratory services performed in an ASTC setting. Charges for these services must be submitted on a separate claim form and shall be subject to the professional services schedule in subsection (h)(8).
 - G) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.
- 2) Anesthesia
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions, and the Relative Value Guide, American Society of Anesthesiologists, 520 North Northwest Highway, Park Ridge, Illinois 60068-2573, 2006, no later dates or editions.
 - B) This schedule was established utilizing health care provider charges from August 1, 2002 through August 1, 2004 from which a conversion factor was established. The maximum fee schedule reimbursement amount is determined by multiplying the conversion factor set forth in the schedule by the sum of all units

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according to guidelines set forth in the Relative Value Guide as follows:

i) $\text{Base Value} + \text{Time Units} + \text{Modifying Units} = \text{Total Units}$

$$\text{Total Units} \times \text{Conversion Factor} = \text{Total Fee}$$

ii) Physical status modifying units may be added to the basic value and time units and, in addition, units may be added for qualifying circumstances (extraordinary circumstances) in accordance with the Relative Value Guide.

C) Special coding situations, such as those involving multiple procedures, additional procedures, unusual monitoring, prolonged physician services, postoperative pain management, monitored (stand-by) anesthesia, invasive anesthesia and chronic pain management services, require application of the fee schedule in a manner consistent with the Relative Value Guide.

D) Anesthesia time begins when an anesthesiologist or certified registered nurse anesthetist (CRNA) physically starts to prepare the patient for the induction of anesthesia in the operating room (or its equivalent) and ends when the anesthesiologist is no longer in constant attendance (when the patient is safely put under postoperative supervision).

3) Dental

All procedures, treatments and services are reimbursed at 76% of actual charge unless services are billed under the HCPCS Level II schedule in subsection (h)(5) or professional fee schedule in subsection (h)(8).

4) Emergency Room

A) This schedule applies to any department or facility of a hospital licensed by the Illinois Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS 85] that:

i) operates as an emergency room or emergency department, whether situated on or off the main hospital campus; and

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- ii) is held out to the public as providing care for emergency medical conditions without requiring an appointment, or has provided at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis during the previous calendar year.
 - B) All procedures, treatments and services subject to this schedule are reimbursed at 76% of actual charge.
 - C) Radiology, pathology and laboratory and physical medicine and rehabilitation services performed in an emergency room shall be reimbursed in accordance with the radiology schedule in subsection (h)(7)(C), the pathology and laboratory schedule in subsection (h)(7)(D) and the physical medicine and rehabilitation schedule in subsection (h)(7)(E).
 - D) Emergency room facility charges, and professional services delivered in an emergency room facility billed by the facility using the facility's tax identification number, shall be subject to the emergency room facility schedule and are not subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8). Health care professionals who perform services in an emergency room facility and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8) and are not covered under the emergency room facility schedule.
- 5) HCPCS (Healthcare Common Procedure Coding System) Level II
The use of this schedule is in accordance with the HCPCS Level II, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions. Level II of the HCPCS is a standardized coding system used to identify products and services not included in the Current Procedural Terminology codes.
- 6) Hospital Inpatient: Standard and Trauma

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- A) The use of these schedules is in accordance with the Diagnosis-Related Group (DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 405 (2005), no later dates or editions. A DRG is a diagnosis-related group code that groups patients into homogeneous classifications that demonstrate similar length-of-stay patterns and use of hospital resources. The DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).
- B) No later than June 30, 2009, the use of these schedules will be in accordance with the Medicare Severity Diagnosis Related Group (MS-DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 411 (2007), no later dates or editions. An MS-DRG is a diagnosis related group code that groups patients based on the severity of a patient's condition and resource consumption. The MS-DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).
- C) Inpatient care shall be defined as when a patient is admitted to a hospital where services include, but are not limited to, bed and board, nursing services, diagnostic or therapeutic services, and medical or surgical services.
- D) Inpatient hospital bills are subject to the hospital inpatient standard schedule. Inpatient hospital bills from trauma centers designated as Level I and Level II trauma centers by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 515.2030 and 515.2040 and that contain an admission type of "5" on a UB-04/CMS 1450 FL 14 (uniform billing form used by hospitals; FL 14 is the form locator number that indicates where the codes are to be listed on the UB-04/CMS 1450 form) are subject to the hospital inpatient trauma schedule.

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- E) Hospital providers must identify the DRG code on each bill (UB-04/CMS 1450 claim form). The DRG assignment should be made in a manner consistent with the grouping practices used by the hospital when billing both government and private carriers.
- F) The following revenue codes/pass-through charges are deducted from the DRG charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). If the maximum amount of payment for an inpatient hospital stay is 76% of actual charge, the DRG charge is determined after the pass-through charges are removed. Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster.
- G) In the case of cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least two times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(6)(F) have been deducted), the maximum reimbursement amount will be the assigned DRG fee schedule amount plus 76% of the charges that exceed that DRG amount. The pass-through revenue code charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster.
- H) Charges for professional services performed in conjunction with charges for other services associated with the hospitalization and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

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- 7) Hospital Outpatient
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.
 - B) This schedule includes radiology, pathology and laboratory, and physical medicine and rehabilitation as well as surgical services performed in a hospital outpatient setting that were not performed during an emergency room encounter or inpatient hospital admission. The radiology, pathology and laboratory, and physical medicine and rehabilitation schedules shall be applied to the number of units billed on the UB-04.
 - C) Radiology
 - i) This schedule provides the maximum fee schedule amount for radiology services performed in a hospital outpatient setting for codes 70010 through 79999. The schedule applies to the technical component of radiology services that are billed in conjunction with revenue codes 320 through 359, 400 through 409 and 610 through 619.
 - ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
 - iii) Professional radiology services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Radiologists or radiology groups who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.
 - D) Pathology and Laboratory

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- i) This schedule provides the maximum fee schedule amount for pathology and laboratory services performed in a hospital outpatient setting for codes 80048 through 89356. This schedule applies to the technical component of pathology and laboratory services that are billed in conjunction with revenue codes 300 through 319.
 - ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
 - iii) Professional pathology and laboratory services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Pathologists who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.
- E) Physical Medicine and Rehabilitation
- i) This schedule provides the maximum fee schedule amount for physical therapy services performed in a hospital outpatient setting for codes 97001 through 97799. This schedule applies to all physical and occupational therapy services that are billed in conjunction with revenue codes 420 through 439.
 - ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
 - iii) All physical medicine and rehabilitation services provided in a hospital outpatient setting are subject to this schedule.

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- F) Hospital Outpatient Surgical Facility (HOSF)
- i) This schedule provides a global maximum fee schedule amount for surgical services performed in a hospital outpatient setting for codes 10021 through 69990. All services performed in an operative session shall be reimbursed at a single fee schedule amount, except as provided in subsection (h)(7)(F)(ii). The single fee schedule amount shall represent the maximum amount payable for the total charges on a claim form that represents the total charges derived from all line items/revenue codes contained in the form. Except for the carve-out revenue codes listed in subsection (h)(7)(F)(ii), this fee schedule shall not be applied on a line item basis.
 - ii) The following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster.
 - iii) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.
 - iv) In the case of cost outliers (extraordinary treatment in which the bill for hospital outpatient facility surgical charges is at least two times the fee schedule amount for the assigned code after pass-through revenue code charges referred to in subsection (h)(7)(F)(ii) have been deducted) the maximum reimbursement amount will be the assigned code fee schedule amount plus 76% of the charges that exceed the code amount. The pass-through revenue

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charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster.

- v) Surgical services performed in the emergency room (revenue codes 450 through 459) are not subject to this schedule and shall be subject to the emergency room facility schedule in subsection (h)(4).
 - vi) Charges for professional services performed in conjunction with charges for other services associated with the surgery and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned surgical code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).
- 8) Professional Services
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.
 - B) Services in this schedule include evaluation and management, surgery, physician, medicine, radiology, pathology and laboratory, chiropractic, physical therapy, and any other services covered under the Current Procedural Terminology.
 - C) Reimbursement for services under this schedule shall be in accordance with the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

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- D) Surgery services under this schedule shall be reimbursed in accordance with the Payment Guide to Global Days, Multiple Procedures, Bilateral Surgeries, Assistant Surgeons, Co-Surgeons, and Team Surgery in Section 8B of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - E) Medicine services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8E of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - F) Pathology and laboratory services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8D of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - G) Radiology services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8C of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
- 9) Rehabilitation Hospitals
- A) This schedule applies to inpatient rehabilitation hospitals that are freestanding.
 - B) This schedule reimburses a rehabilitation hospital one per diem rate per day, on the basis of the assigned primary diagnosis code. The single per diem rate shall reimburse the rehabilitation hospital for all services provided in the course of a day.
 - C) The use of this schedule is in accordance with The International Classification of Diseases, Ninth Revision, Clinical Modification, (ICD-9-CM), Volume 2, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500

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Security Boulevard, Baltimore, Maryland 21244, 2007, no later dates or editions.

10) Prescriptions

- A) This schedule applies to prescriptions filled and dispensed outside of a licensed pharmacy.
- B) Prescriptions shall be billed at the Average Wholesale Price, plus a dispensing fee of \$4.18. [820 ILCS 305/8.2(a-3)]
- C) Average Wholesale Price or its equivalent as registered by the National Drug Code shall be set forth for that drug on that date as published in Medispan. [820 ILCS 305/8.2(a-3)]
- D) If a prescription has been repackaged, the Average Wholesale Price used to determine the maximum reimbursement shall be the Average Wholesale Price for the underlying drug product, as identified by its National Drug Code from the original labeler.

- i) The fee schedule requires that services be reported with the HCPCS Level II or Current Procedural Terminology codes that most comprehensively describe the services performed. Proprietary bundling edits more restrictive than the National Correct Coding Policy Manual in Comprehensive Code Sequence for Part B Medicare Carriers, Version 12.0, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions, are prohibited. Bundling edits is the process of reporting codes so that they most comprehensively describe the services performed.
- j) An allied health care professional, such as a certified registered nurse anesthetist (CRNA), physician assistant (PA) or nurse practitioner (NP), is to be reimbursed at the same rate as other health care professionals when the allied health care professional is performing, coding and billing for the same services as other health care professionals.
- k) Charges of an independently operated diagnostic testing facility shall be subject to the professional services and HCPCS Level II fee schedules where applicable. An independent diagnostic testing facility is an entity independent of a hospital or

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physician's office, whether a fixed location, a mobile entity, or an individual nonphysician practitioner, in which diagnostic tests are performed by licensed or certified nonphysician personnel under appropriate physician supervision.

- 1) No later than September 30, 2006 and each year thereafter, the Commission shall make an automatic adjustment to the maximum payment for a procedure, treatment or service in effect in January of that year. The Commission shall increase or decrease the maximum payment by the percentage change of increase or decrease in the Consumer Price Index-U for the 12-month period ending August 31 of that year. The change shall be effective January 1 of the following year. *The Consumer Price Index-U means the index published by the Bureau of Labor Statistics of the U.S. Department of Labor that measures the average change in prices of all goods and services purchased by all urban consumers, U.S. city average, all items, 1982-84=100.* (Section 8.2 of the Act)

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

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- 1) Heading of the Part: Commission Review Board Procedures
- 2) Code Citation: 50 Ill. Adm. Code 7500
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
7500.10	Amendment
7500.20	Amendment
7500.30	Amendment
7500.40	Amendment
7500.50	Amendment
- 4) Statutory Authority: Section 14.1 of the Workers' Compensation Act [820 ILCS 305/14.1]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments address an audit finding set forth by Auditor General William Holland in the audit directed pursuant to House Resolution 131 of the 97th General Assembly. Specifically, the audit stated that the Commission Review Board has failed to comply with Section 7500.10 of the Commission's rules, which requires the Commission Review Board to call a meeting within 15 days after receipt of any complaint against an Arbitrator or Commissioner.

In its response to the audit, the Commission pointed to the logistical challenge of both posting and holding a meeting for every complaint received by the Commission, as many of the communications received by the Commission Review Board do not constitute complaints as defined in the rule. The proposed amendments create a process in which the General Counsel of the Commission evaluates all communications received and determines whether the communication is a complaint within the meaning of the rule. Any complaints will then be considered by the Board during its next regularly scheduled meeting. Other proposed amendments include the correction of outdated statutory references, typographical errors and clarification of confusing and redundant language.
- 6) Any published studies or reports, along with sources of underlying data, that were used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Kimberly B. Janas
Secretary of the Commission
Illinois Workers' Compensation Commission
100 W. Randolph Street Suite 8-200
Chicago, IL 60601

Phone: 312.814.6559
kimberly.janas@illinois.gov
Fax: 312.814.3520

- 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: July 2012

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER II: WORKERS' COMPENSATION COMMISSION

PART 7500

COMMISSION REVIEW BOARD PROCEDURES

Section

7500.10	Function
7500.20	Chairman of the Commission Review Board
7500.30	Complaints
7500.40	Hearings on Complaints
7500.50	Decisions of the Board

AUTHORITY: Implementing and authorized by Section 14.1 of the Workers' Compensation Act [820 ILCS 305].

SOURCE: Emergency rules and adopted at 10 Ill. Reg. 3309, effective January 27, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3495, effective February 9, 1987; amended at 36 Ill. Reg. _____, effective _____.

Section 7500.10 Function

- a) Authority of the Commission Review Board (~~herein the~~ Board) shall consist of the following:
- 1) to receive complaints concerning conduct that occurred after June 30, 1984; by a Workers' Compensation Commission (WCC)~~an Industrial Commission~~ Commissioner or WCC~~Industrial Commission~~ Arbitrator (respondent) when ~~either~~:
 - A) allegations of misconduct committed as part of the respondent's~~Commissioner's or Arbitrator's~~ duties have been made ~~that~~which would factually support an indictment under the criminal law of Illinois; ~~or~~
 - B) allegations that the respondent's~~Arbitrator's or Commissioner's~~ conduct demonstrates favoritism toward one party in the conduct of the proceeding; ~~or~~

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- C) allegations that the ~~respondent~~~~Arbitrator or Commissioner~~ did not follow the procedures and rules ~~of WCC set by the Illinois Industrial~~ Commission or the ~~provisions of procedures set forth in~~ the Workers' Compensation Act ~~[820 ILCS 305] (Act)~~; or
- D) allegations that ~~a respondent~~~~an Arbitrator or Commissioner~~ had a conflict of interest ~~and did not recuse himself or herself from that matter~~.
- 2) to conduct investigations of ~~such~~ complaints;
- 3) to conduct hearings on ~~such~~ complaints to determine if there is sufficient evidence:
- A) to advise the ~~respondent~~~~Commissioner or Arbitrator~~ of necessary corrective action, which shall consist of an oral or written reprimand sent to the ~~respondent~~~~Commissioner or Arbitrator~~ by the Board ~~stating~~ that the ~~respondent~~~~Commissioner or Arbitrator~~ should not repeat the conduct stated in the complaint; or
- B) in matters of serious concern to the State, to recommend to the Governor ~~the dismissal of an Arbitrator or~~ the non-reappointment of a Commissioner ~~or an Arbitrator~~. A matter of serious concern ~~may include, but not limited to,~~ is misconduct in a proceeding by a Commissioner or Arbitrator ~~such that it~~ would support an indictment under Illinois ~~criminal~~~~Criminal~~ law, ~~or~~ a pattern of complaints requiring corrective action consisting of ~~three~~ oral or written reprimands for favoritism toward a party, or failure to follow rules or procedures of ~~WCC~~~~the Industrial Commission~~.
- b) Complaints against Board Members~~Membership~~
No member of the Board may participate, ~~except to hear and defend against the complaint,~~ in any proceedings before the Board involving a complaint as to his or her own conduct, except to defend against the complaint.
- c) Meetings
1) Regular meetings of the Board will be scheduled to be held at least once per calendar year quarter. Additional meetings will be held pursuant to the call of the Chairman or at the request of three or more members. The meetings of the Board

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~~shall be conducted in accordance with the provisions of the Open Meetings Act [5 ILCS 120]. The Board will call a meeting within (15) days of receipt of any complaint.~~

- 2) ~~Members of the Board shall receive written notice of the scheduling, rescheduling, or cancellation of meetings at least five business days prior to any such meeting.~~
- 3) ~~Five members shall constitute a quorum for the transaction of business.~~
- 4) ~~The Board will vote to close all or any portion of that meeting whenever the meeting is to consider information regarding appointment, employment or dismissal of an Arbitrator or Commissioner or is to hear testimony on a complaint lodged against an Arbitrator or Commissioner to determine its validity. (Ill. Rev. Stat. 1985, ch. 102, par. 42). The motion requesting a closed meeting and the vote of each member on that motion will be recorded in the minutes of the meeting.~~

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

Section 7500.20 Chairman of the Commission Review Board

The Chairman of ~~the WCC Industrial Commission~~ shall ~~will~~ serve as Chairman of the Commission Review Board; ~~will~~ receive, compile, audit, and retain complaints filed against Commissioners and Arbitrators ~~of the Industrial Commission~~; and will perform such ~~other~~ duties as ~~are set forth in this Part or~~ may be designated ~~designed~~ by a majority of the members from time to time.

Section 7500.30 Complaints

- a) All complaints received by WCC ~~filed~~ against a Commissioner or Arbitrator ~~shall~~ must be in writing, shall identify the respondent and the complainant, and shall be sufficiently clear to apprise the respondent of the misconduct charged set forth by a complainant in written form and must contain a concise statement of essential facts specifically describing misconduct listed in Section 7500.10(a).
- b) The Executive Director of WCC ~~shall~~ Chairman ~~will~~ acknowledge in writing receipt of each written communication to the Board ~~which constitutes a complaint under Section 14.1 of the Worker's Compensation Act (the Act) (Ill. Rev. Stat. 1985 ch. 48, par. 138.14.1). The Executive Director shall forward all~~

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communications received to the WCC General Counsel. The General Counsel shall determine whether the communication constitutes a complaint setting forth sufficient evidence that a respondent engaged in any misconduct set forth in Section 7500.10(a)(1). If a communication does not constitute a complaint, then the Executive Director shall Board will send the complainant a letter explaining that the communication does not meet the requirements of this Part a complaint and why the communication is defective. The Executive Director shall supply a copy of all correspondence to the to the Board members at regularly scheduled meetings. The Executive Director shall provide a monthly report of all communications to the Chairman. If a communication constitutes a complaint, it shall be forwarded to the Board for consideration at its next regularly scheduled meeting.

- c) The Executive Director shall inform the complainant that, if a hearing is held by the Board on the complaint, it is the duty of the complainant to testify and, if the complainant does not testify, the complaint shall be considered null and void and will be dismissed by the Board (Section 14.1 of the Act). The Board will preserve the identity of any complainant who has not revealed his or her own identity to the respondent either directly or through publication subject to the statutory requirement of Ill. Rev. Stat. 1985, ch. 48, par. 138.14.1 that if complainant does not appear and testify at a hearing scheduled on the complaint, the complaint shall be dismissed.
- d) If, on preliminary examination or injury, the Board Chairman determines that the complaint does not allege misconduct as stated in Section 7500.10(a)(1), the Chairman or does not set forth allegations which would constitute a basis for a complaint under section 7500.10(a)(1) of this Part he may, with the concurrence of a majority of the Board members, dismiss the complaint, in which case the Executive Director he shall notify the complainant of the dismissal. If the matter is not so dismissed, the Chairman will notify the respondent Commissioner or Arbitrator, within 15 fifteen (15) business days after the Board meeting at which the complaint was considered of receipt of the complaint, that a complaint has been filed against him or her, with written notice served by personal delivery or by certified mail with a return receipt requested. The notice shall include a copy of the complaint filed, with the deletion of the identity of the complainant.
- e) If the respondent responding Commissioner or Arbitrator elects to respond in writing to the complaint, his or her response must be filed with the Chairman within 30 thirty (30) days from receipt of the notice from the Chairman, unless,

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prior to the time for filing of the response, a written request for extension of the time to respond has been filed with and granted by the Chairman, for good cause shown. Only one 30 day extension may be granted by the Chairman. An extension is for 30 days and only one will be granted. The Respondent shall respond, in specific detail, to the charges of the complaint.

- f) The proceedings of the Board and all information and written or oral material ~~written or oral~~, pertaining to the proceedings, and all information or materials relating to any investigation and hearing held on specific complaints filed pursuant to Section 14.1 of the Act, shall not be available to the public pursuant to Sections 7**(b-5)(b)(v)** and (m) of the Freedom of Information Act [5 ILCS 140/7] (Ill. Rev. Stat. 1985 ch. 116, par. 207 (b) (v) and (m)).
- g) After examination of the complaint and response by the respondent, the Board may, by written or oral vote of the majority of its members, determine whether to dismiss the complaint or order its investigation. The Board's standard for determining whether to dismiss a complaint is if there is any credible evidence to support the complainant's allegations. An investigation may be conducted by ~~Board'such~~ members; or by ~~sueh~~ other persons, ~~as may be~~ designated by the Board from time to time to conduct ~~thesesueh~~ investigations.
- h) After consideration of the complaint and any response and investigation, the Board may, by written or oral vote of a majority of its members, determine whether to dismiss the complaint or hold a hearing on the complaint. The Board's standard for determining whether to dismiss a complaint or hold a hearing is whether evidence exists to sustain the complainant's allegation ~~thatwhich~~ has not been rebutted by the respondent. When the Board has voted to dismiss a complaint without a hearing, it shall so notify the complainant and the ~~respondentinvolved Arbitrator or Commissioner~~ in writing.

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

Section 7500.40 Hearings on Complaints

- a) Time and Notice of the Hearing
- 1) If the Board determines that a hearing on a complaint shall be held, it shall set a hearing ~~dateon a complaint that is~~ within ~~60 sixty (60)~~ days from the date of that determination, or as soon as possible thereafter.

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- 2) Written notice of the date, time and place of the hearing shall be served on the complainant and on the ~~respondent~~~~responding Arbitrator or Commissioner~~, or on their designated counsel, if any, by personal service or by certified mail with return receipt ~~requested~~, not less than ~~15~~~~fifteen~~ ~~(15)~~ days prior to the date set for hearing.
 - 3) Hearings before the Board shall be continued only upon written motion supported by good cause. Good cause ~~includes, but shall not be limited to, shall consist of~~ illness of family, death in a party's family, or the need for additional time to gather evidence.
- b) Conduct of Hearings
- 1) All available members of the Board will sit en banc at all hearings on complaints, subject to non-participation of a member when the proceedings involve his ~~or her~~ own conduct, or the Board member is involved in the events related in the complaint such that he or she could be called as a witness in the complaint.
 - 2) Hearings on a complaint shall proceed from day to day until the taking of any evidence and the hearing of any arguments has been completed.
 - 3) The Board shall have present at each hearing a qualified court reporter for the purpose of making a permanent and complete record of proceedings. The original transcript of the proceedings shall be filed with the Board and will be available for inspection at the ~~WCC~~~~Commission's~~ offices by or on behalf of members of any party to the proceedings. Upon request and at his or her own expense, any party to the proceedings may obtain a copy of ~~the said~~ report from the court reporter at the fair market rate of compensation.
 - 4) The Illinois ~~Rules of Evidence and statutory~~~~common law~~ rules of evidence will not be applicable for purpose of excluding offered evidence, but they will be considered by the Board in weighing the evidence received.
 - 5) If any complainant fails to testify at a proceeding scheduled before the Board regarding his or her previously filed complaint, the complaint ~~shall~~~~will~~ be dismissed.

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- 6) The ~~respondent~~responding Arbitrator or Commissioner, personally or through ~~his~~ designated counsel, if any, may waive in writing his ~~or her~~ right to appear before the Board to respond to charges.
 - 7) The ~~respondent~~responding Arbitrator or Commissioner or the complainant may retain counsel to represent him or her at the hearing. The Board may grant, on motion, permission to a witness to have counsel present; ~~the~~such counsel may not question or cross-examine witnesses, or otherwise participate in the hearing, except by permission of the Board.
 - 8) The ~~respondent~~responding Arbitrator or Commissioner and complainant may be questioned by the Board concerning the allegations of the complaint and will be given the opportunity to make such statements, offer such evidence, or give such information, including the names of any witnesses he or she may wish to have heard by the Board, relevant to the complaint as he or she may desire, subject to the Board's authority to place reasonable restrictions on duration of any statement or direct or cross-~~examination~~ and the volume and nature of any non-testimony evidence.
- c) The Board will provide a public notice of all meetings pursuant to Section 2.02 of the Open Meetings Act [[5 ILCS 120/2.02](#)]. ~~(Ill. Rev. Stat. 1985, ch. 102, par. 42.02).~~

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

Section 7500.50 Decisions of the Board

- a) Subsequent to the hearing on any complaint, the ~~Board members~~ will confer to determine the disposition of the matter. The Board will find an Arbitrator or Commissioner unfit to serve when an allegation ~~that~~which is a matter of serious concern to the State is sustained by the preponderance of the evidence. In conformance with Section 14.1 of the Act, in matters of serious concern to the State as defined by Section 7500.10(a)(3)(B), the Board may recommend that the Governor:
 - 1) ~~not reappoint and dismiss any~~ Arbitrator who is found unfit to serve; or
 - 2) not reappoint a Commissioner who it finds unfit to serve.

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- b) All decisions of the Board shall be preserved in the permanent records of the Board. The Board will issue copies of its decisions by certified mail with return receipt requested to the Board members, and to the complainants and ~~the respondent involved Arbitrator or Commissioner~~, or their counsel, by certified mail, with return receipt.

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

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- 1) Heading of the Part: Licensing Enforcement
- 2) Code of Citation: 89 Ill. Adm. Code 383
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
383.15	Amend
383.80	Amend
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Amendments: August 15, 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 is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: March 9, 2012; 36 Ill. Reg. 3579
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: A conditional license is an enforcement option available to some licensees who, having demonstrated an inability or unwillingness to operate in compliance with licensing standards, are deemed deserving of another chance. The amendments clarify that a surrender of a full or provisional license to obtain a "conditional license" is a "surrender with cause"; the licensing representative must document and report all violations/non-compliance up the chain of command; the

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manager decides how to proceed; and an uncooperative licensee is precluded from applying for another license for at least one year.

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

Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER D: LICENSING ADMINISTRATION

PART 383

LICENSING ENFORCEMENT

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383.15	Definitions
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SUBPART B: ENFORCEMENT

Section

383.25	Monitoring Visits to Licensed Facilities
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383.35	Investigations of Complaints Concerning Licensed Facilities
383.40	Re-examination of a Foster Family Home After an Indicated Child Abuse or Neglect Report
383.45	Protective Plan
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383.80	Conditional License
383.85	Notice of Intent to Revoke, Refuse to Renew, or Refuse to Issue Full License
383.90	Surrender of a License or Permit
383.95	Acquiring a New License After Surrender With Cause
383.100	Investigations of Complaints Concerning Unlicensed Facilities
383.105	Administrative Order of Closure
383.110	Appeal After Issuance of an Administrative Order of Closure

SUBPART C: ADMINISTRATIVE HEARINGS

Section

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383.115	Who May Request an Administrative Hearing
383.120	What May Be Reviewed Through the Administrative Hearing Process
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383.130	The Right to Request an Administrative Hearing
383.135	Notices of Department Decisions
383.140	The Role of the Chief Administrative Law Judge
383.145	Rights and Responsibilities in Administrative Hearings
383.150	The Administrative Law Judge
383.155	Final Administrative Decision
383.160	Records of Administrative Hearings

SUBPART D: SEVERABILITY OF THIS PART

Section

383.165 Severability of This Part

383.APPENDIX A Statutory Grounds for Revocation or Refusal to Renew a License

383.APPENDIX B Resource Reference List

AUTHORITY: Authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted at 5 Ill. Reg. 14491, effective December 29, 1981; old Part repealed at 32 Ill. Reg. 4373 and new Part adopted at 32 Ill. Reg. 4332, effective March 17, 2008; amended at 36 Ill. Reg. 13039, effective August 15, 2012.

SUBPART A: GENERAL PROVISIONS

Section 383.15 Definitions

"Administrative hearing" means a formal review of a decision by the Department to revoke or refuse to renew a license, or to refuse to issue a full license to the holder of a permit.

"Administrative order of closure" means a document issued by the Department that orders the immediate closure of a child care program or facility subject to licensure under the Child Care Act, whether the program or facility is licensed or unlicensed.

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"Administrative Law Judge" means a licensed attorney who is appointed by the Director and is responsible for conducting administrative hearings and issuing recommended decisions to the Director.

"Appellant" means the person or entity who requests an administrative hearing or on whose behalf an administrative hearing is requested.

"Authorized representative" means a person, including an attorney, authorized in writing by a party to assist in the informal review or administrative hearing process. If the party is unable to reduce such authorization to writing, the Department, on request, shall assist the party in doing so.

"Chief Administrative Law Judge" means the supervisor of the Administrative Law Judges and coordinator for the administrative hearing process.

"Child" means any person under 18 years of age. For purposes of admission to and residence in child care institutions, group homes and maternity centers, the term also means any person under 21 years of age who is referred by a parent or guardian, including an agency having legal responsibility for the person pursuant to the Juvenile Court Act of 1987. [225 ILCS 10/2.01]

"Child Care Act" means the Child Care Act of 1969 [225 ILCS 10].

"Child care facility" means any person, group of persons, agency, association, organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility defined in the Child Care Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act. [225 ILCS 10/2.05]

"Complaint" means:

any oral or written report made to or by staff of the Department or a supervising agency or by the public alleging a violation of licensing standards or the Child Care Act;

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an unusual incident report, as defined in 89 Ill. Adm. Code 331 (Unusual Incidents), that alleges a violation of a licensing standard or the Child Care Act involving children in day care, children in the temporary custody or guardianship of the Department, or children for whom the Department maintains an open service case, when the alleged incident involves an owner, operator or employee of a child care facility; or

a referral from the Department's State Central Register (SCR) that alleges a violation of a licensing standard or the Child Care Act or a report of alleged child abuse or neglect received by the SCR when an owner, operator or employee of a child care facility, or a licensee, employee or another member of the household if the child care facility operates in a family home, is listed as an alleged perpetrator (see 89 Ill. Adm. Code 300.160).

"Conditional license" means a non-renewable document issued by the Department [after an informal review](#) that authorizes a licensee to continue operating a licensed child care facility for a period of six months in compliance with a corrective plan, the Child Care Act and licensing standards, and requires the licensee to comply fully with all terms of the conditional license agreement.

"Corrective plan" means a written document approved by a licensing supervisor that lists violations of licensing standards and/or the Child Care Act, the actions to be taken by the licensee or permit holder to correct the violations, and the time frames for correcting the violations.

"Day" means a calendar day, unless otherwise specified in this Part.

"Department" means the Illinois Department of Children and Family Services.
[225 ILCS 10/2.02]

"Department representative" means an attorney licensed to practice in the State of Illinois who is assigned to represent the Department at an administrative hearing.

"Director" means the Director of the Department of Children and Family Services.

"Final administrative decision" means the Department's final decision, order or determination, rendered by the Director in a particular case, on an issue reviewed

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through an administrative hearing that affects the legal rights, duties or privileges of participants and that may be further reviewed by the circuit court under the Administrative Review Law [735 ILCS 5/[Art. III~~3-101~~](#)].

"Full license" means a document issued by the Department that authorizes the applicant to operate a child care program or facility for either a 3 or 4 year time period in accordance with licensing standards and the Child Care Act. The term "full license" does not include a permit or a conditional license.

"Indicated report" means any report of child abuse or neglect made to the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5] for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Informal review" means a meeting conducted by the licensing administrator or designee to gather information regarding a permit holder's or licensee's noncompliance with the Child Care Act and licensing standards to determine whether further enforcement action shall be recommended.

"Initial application for license" means the first application for licensure submitted by the individual, corporation, or other legal entity, or an application for licensure submitted by the holder of a conditional licensee.

"License" means a document issued by the Department that authorizes the applicant to establish or operate a child care program or facility in accordance with applicable licensing standards and the Child Care Act.

"Licensee" means an individual, agency, or organization that holds a license issued by the Department.

"Licensing administrator" means management-level staff of the Department who are assigned the direct supervision of licensing supervisors.

"Licensing complaint investigation" means an information gathering and assessment process initiated following receipt of a complaint and conducted by a licensing representative in order to determine compliance with the Child Care Act and licensing standards.

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"Licensing representative" means Department or licensed child welfare agency staff who have passed an examination demonstrating familiarity with the Child Care Act and with the appropriate standards and regulations of the Department in accordance with Section 5(c) of the Child Care Act and are authorized by the Department or agency to examine child care programs and facilities applying for or issued a license.

"Licensing standards" means the administrative rules promulgated by the Department governing the licensing and operation of child care facilities.

"Licensing study" means the written assessment of an application for a child care program or facility license that includes, but is not limited to, on-site visits, interviews, background checks, references, and the collection and review of supporting documents to determine compliance with the Child Care Act and licensing standards.

"Licensing supervisor" means Department or licensed child welfare (see 89 Ill. Adm. Code 401.310) or day care (see 89 Ill. Adm. Code 405.10) agency staff assigned the responsibility for direct supervision of licensing representatives.

"Monitoring visit" means an on-site visit to the program or facility by the licensing representative to determine continuing compliance with the Child Care Act and licensing standards.

"Parties" means the Department and a person or persons who have requested an administrative hearing. No person may join in an administrative hearing as a party unless that person has standing to request an administrative hearing on the same issues before the Administrative Law Judge.

"Permit" means a one-time only document issued by the Department in accordance with applicable licensing standards.

"Permit holder" means an individual, agency, or organization that holds a permit issued by the Department.

"Permit period" means the time period designated in the licensing standards for a particular facility type during which an individual, agency, or organization may operate a child care program or facility pursuant to a permit issued by the Department.

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"Perpetrator" means a person who, as a result of a child protection investigation, has been determined by the Department to have caused child abuse or neglect.

"Preponderance of the evidence" means the greater weight of the evidence or evidence that renders a fact more likely than not.

"Program", as used in this Part, means a Youth Transitional Housing Program operating in a licensed child care facility in accordance with applicable standards defined in 89 Ill. Adm. Code 409 (Licensing Standards for Youth Transitional Housing Programs) and the Children and Family Services Act [20 ILCS 505], or in an unlicensed facility where the transitional living facility meets the requirements of 89 Ill. Adm. Code 409.

"Protective plan" means a written plan of action developed by a licensing representative or a child protective service worker, and approved by the licensing supervisor, that restricts contact between a licensee, employee, volunteer, household member, or another person in contact with children in a licensed facility and the children cared for in the facility.

"Refusal to issue full license" means the Department has refused to issue a full license at the end of a permit period.

"Refusal to renew a license" means that, after submission of a license renewal application and a licensing study based upon that application, the Department refuses to extend the license for an additional term.

"Regional Licensing Administrator" means the Department's regional-level manager who supervises Department licensing supervisors.

"Request for an administrative hearing" means the written request by an appellant for an administrative hearing.

"Revocation of a license" means the Department has terminated the rights and privileges associated with a license or a permit.

"Stipulation" means an agreement by the parties that certain facts are true and can be introduced into evidence without further proof.

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"Supervising agency" means the Department, licensed child welfare agency or licensed day care agency that recommended licensure of or supervises a licensed foster home or day care home.

"Supervisory review" means a meeting conducted by the licensing supervisor and licensing representative during which a licensee or permit holder may dispute the licensing representative's substantiated findings of violation of the Child Care Act and licensing standards.

"Surrender of a license or permit" means a voluntary act by a licensee or permit holder to relinquish a license or permit to operate a child care program or facility. Surrender of a license or permit terminates all rights and privileges associated with the license or permit.

"Surrender with cause" means a surrender of a license or permit that occurs after the Department has offered an informal review or issued an administrative order of closure, but before the Department has issued a notice of intent to revoke, refusal to renew, or refusal to issue full license.

"Unlicensed child care facility" means a child care program or facility subject to licensure under the Child Care Act that is operating without a valid license or permit.

"Violation" means that the licensing representative has determined, during a licensing complaint investigation, a licensing study or a monitoring visit, that the licensee or permit holder has violated a licensing standard or a Section of the Child Care Act.

(Source: Amended at 36 Ill. Reg. 13039, effective August 15, 2012)

SUBPART B: ENFORCEMENT

Section 383.80 Conditional License

- a) The Department may issue a conditional license to a currently licensed program or facility when the Department determines that continued operation of the program or facility does not constitute a threat to the health, safety, morals or welfare of the children served. A complete listing of deficiencies and a corrective plan approved by the Department shall be in existence at the time a conditional

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license is issued. The licensing representative shall document compliance and progress with the conditional license agreement and corrective plan. When the licensing representative substantiates one or more new violations, documents a recurrence of one or more previously corrected violations, or documents noncompliance with any terms of the conditional license agreement, the licensing representative shall contact the licensing supervisor. The licensing supervisor shall notify the Regional Licensing Administrator, who shall determine an appropriate course of action that may include, but is not limited to, modifying the corrective plan, issuing an Administrative Order of Closure, or initiating proceedings to revoke the conditional license.

- b) The Department shall conduct an informal review to determine the appropriateness of offering a conditional license. Prior to issuing a conditional license, the Department shall revoke or refuse to renew the current license, or the licensee shall surrender the current license. (Surrender of the license is construed as a "surrender with cause" per Section 383.95 of this Part.) Upon revocation, non-renewal or surrender of the license, the Department and licensee shall execute a conditional license agreement and the Department shall issue a conditional license to operate the facility.
- c) A conditional license shall be valid for six months and is not renewable or extendable.
- d) The licensee must comply with the terms of the conditional license agreement, correct all violations, be in full compliance with the Child Care Act and licensing standards by the end of the fifth month of the conditional license, and remain in full compliance until the date of expiration of the conditional license.
- e) The licensee must submit a new and complete initial application for licensure before the end of the third month of the conditional license in order for the application to be considered timely and sufficient.
- f) Failure by the licensee to comply with the conditional license agreement may result in the issuance of an administrative order of closure or denial of a new license.
- g) When a licensee does not submit a timely and sufficient application pursuant to subsection (e), or if a new license was denied, the Department shall not accept an

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application for another new license from the licensee until at least one year has elapsed from the expiration date of the conditional license.

hg) The Department shall not issue a conditional license to the holder of a permit.

(Source: Amended at 36 Ill. Reg. 13039, effective August 15, 2012)

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- 1) Heading of the Part: Licensing Standards for Group Homes
- 2) Code Citation: 89 III. Adm. Code 403
- 3) Section Number: 403.21 Adopted Action: Amended
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10/5.2]
- 5) Effective Date of Rulemaking: August 15, 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 amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 30, 2011; 35 Ill. Reg. 15502
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 403.21(a) as a 1st Notice Change, DCFS clarified that a waiver request must be made in writing and provided additional waiver criteria..
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is amending Part 403 to improve the care and well being of children in group homes. The Department adopted an amendment to Section 403.21, effective May 1, 2010, which required that only staff of the same gender may supervise children in sleeping and bathing areas of the group home. Due to lack of qualified male applicants, numerous group homes were unable to provide adequate male staffing to comply and the Central Office of Licensing put a temporary

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hold on enforcement. This rulemaking allows case by case waivers of this provision by the Director of the Department, adding language in the second notice to require that group homes requesting a waiver report their efforts to meet the requirement and document protective measures in place while the same-sex provision is waived.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 403

LICENSING STANDARDS FOR GROUP HOMES

Section

403.1	Purpose
403.2	Definitions
403.3	Effective Date of Standards (Repealed)
403.4	Application for License
403.5	Application for Renewal of License
403.6	Provisions Pertaining to the License
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403.8	Child Care Services
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403.16	Professional Services
403.17	Agency Supervision of the Group Home
403.18	Child Care Staff
403.19	Professional Staff
403.20	Support Staff
403.21	Staff Coverage
403.22	Health Requirements for Staff and Volunteers
403.23	Live-in Staff (Repealed)
403.24	Night Duty Staff (Repealed)
403.25	Staff Training
403.26	Physical Facilities
403.27	Required Written Consents
403.28	Records and Reports
403.29	Severability of This Part

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the

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Children's Product Safety Act [430 ILCS 125], the Carbon Monoxide Alarm Detector Act [430 ILCS 135/10], and the Smoke Free Illinois Act [410 ILCS 82].

SOURCE: Adopted and codified at 5 Ill. Reg. 13147, effective November 30, 1981; amended at 7 Ill. Reg. 3454, effective April 4, 1983; amended at 11 Ill. Reg. 1489, effective January 15, 1987; amended at 11 Ill. Reg. 17523, effective October 15, 1987; amended at 21 Ill. Reg. 4587, effective April 1, 1997; amended at 24 Ill. Reg. 17062, effective November 1, 2000; amended at 34 Ill. Reg. 6054, effective May 1, 2010; amended at 36 Ill. Reg. 13051, effective August 15, 2012.

Section 403.21 Staff Coverage

- a) A group home shall employ at least 2 full-time child care staff who shall meet the requirements for child care staff enumerated in Section 403.18. The ratio of child care staff to children may include other staff if they meet the qualifications of child care staff as prescribed in Section 403.18. The group home or supervising agency shall ensure that groupings and supervision of children provides for individual attention and consideration of each child. Child care staff shall provide supervision to children at all times. Except when waived in writing by the Director of the Department, children~~Children~~ shall be under the direct supervision of staff of the same sex while in their sleeping or bathroom areas. Any request for such a waiver shall be in writing, documenting efforts to meet the requirement and the rationale for granting a waiver, and shall detail protective measures in place. The group home shall ensure that the well-being of the children will be protected while the same-sex supervision requirement is waived. Other staff shall perform child care staff duties only when their other assignments and time allow. The following staffing patterns shall be followed:
 - 1) At least one child care staff shall be on duty when one or more children are present. At least 2 child care staff shall be on duty when:
 - A) Six or more children under age 16 are present, except that one child care staff person may care for 6 or more children when all of the children present are 16 years of age or older; are not diagnosed moderately to severely developmentally or physically disabled; can provide for their own personal needs; do not assault; and are not security risks.

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- B) More than 4 children are present in the home who are under the age of 6 or are diagnosed as developmentally or physically disabled to an extent requiring close supervision or assistance with their own personal care needs or mobility.
 - C) When the group home or supervising agency has determined that the number of staff on duty is not sufficient to carry out the individual service plans and meet the individual needs of the children in care, additional staff shall be on duty and actively working with the children in care.
- 2) When an emergency arises such as injury of a child that would necessitate taking the child to the hospital, or an emergency in child care staff's personal life, or any other emergency, the child welfare agency under whose auspices the group home operates is responsible for assuring appropriate staff coverage. If staff on call are used they shall meet the requirements of child care staff and shall be able to be in the group home within 20 minutes. Children shall never be left in the care of other children.
- 3) In instances ~~when~~where the group home operates under a "shift" staffing pattern, at least one member of the night duty staff shall be awake and alert to assure protection and supervision of the children in care.
- 4) In instances ~~when~~where the group home operates under a live-in staffing pattern, the live-in staff shall be provided with their own living quarters so located as to assure that they are readily available and within hearing distance from the children.
- A) The awake night staff requirement may be waived in writing by the Director of the Department or ~~his~~ designee.
 - B) A request for a waiver of the awake night staff requirement shall be in writing and it shall be the responsibility of the facility to demonstrate that the well-being of the children can be protected ~~in accordance with the above requirement in Section 403.21(a)(5).~~
- b) During the absence of regular child care personnel for time off, vacations, sick leave or any other absence (such as attendance at conferences or meetings etc.),

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substitute child care personnel must be provided. These substitutes shall meet the requirements of child care staff as specified in ~~Section~~section 403.18.

(Source: Amended at 35 Ill. Reg. 13051, effective August 15, 2012)

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- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 III. Adm. Code 406
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
406.2	Amend
406.4	Amend
406.6	Amend
406.9	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Child Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3]
- 5) Effective Date of Rulemaking: August 15, 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 incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 4, 2011; 35 Ill. Reg. 17491
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:
 - The Department has dropped the requirement that providers participate in the Tiered Quality Rating and Improvement System. Participation in this system remains voluntary and accessible to those enrolled in the Registry.
 - The requirement that currently licensed day care providers be enrolled and participate in the Gateways to Opportunity Registry program by July 1, 2012 was changed to September 1, 2012. All new applicants and those seeking renewal on or after September 1, 2012 will also be required to be enrolled and participate in the program.

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- Language was added clarifying that the intent of enrolling in membership to the Gateway to Opportunity Registry is for primary caregivers to submit their educational and training credentials to the Registry.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Number:</u>	<u>Adopted Action:</u>	<u>Illinois Register Citation:</u>
406.8	Amend	36 Ill. Reg. 5663; April 13, 2012

- 15) Summary and Purpose of Amendments: By September 1, 2012, the primary caregivers and assistants employed by the day care home shall become a member of and participate in the Gateways to Opportunity Registry, with all educational and training credentials entered into the registry. Newly hired staff serving children shall also become members of the Gateways to Opportunity Registry within 30 days after hire.

New applicants on or after September 1, 2012 shall provide proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the home with all educational credentials and pre-service training entered into the registry

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

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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TITLE 89: SOCIAL SERVICES

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SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

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406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
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406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Day Care Home

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- 406.APPENDIX D Pre-Service and In-Service Training
406.APPENDIX E List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of The Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 36 Ill. Reg. 4103, effective March 5, 2012; amended at 36 Ill. Reg. 13057, effective August 15, 2012.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the

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rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

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- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

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"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground,

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a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year" often called the anniversary year, means the period of time from the date a day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and

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personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

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"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Related" means any of the following relationships by blood, marriage, civil union, or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined,

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during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 36 Ill. Reg. 13057, effective August 15, 2012)

Section 406.4 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services by the supervising agency on forms prescribed and provided by the Department.
- b) Contents ~~Content~~ of Application
 - 1) A complete application shall include:
 - A) a completed, signed and dated Application for Home License;
 - B) a list of persons who will be working in the day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - C) completed, signed and dated authorizations to conduct the background check for the applicants, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;

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- D) a completed, signed and dated Child Support Certification form;
 - E) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;
 - F) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs; ~~and~~
 - G) a copy of high school diploma or equivalent certificate; ~~and~~
 - H) for applications submitted on or after September 1, 2012, proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the home with all educational credentials and pre-service training entered into the registry.
- 2) For initial applications submitted after January 1, 2011, the applicant, who shall be the primary caretaker, shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix D, which shall include the following topics:
- A) Sudden Infant Death Syndrome (SIDS);
 - B) Shaken Baby Syndrome; and
 - C) Department approved Mandated Reporter training.
- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the

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licensing representative performing the study and by his/her supervisor. A license may not be recommended without the receipt of at least 3 positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.

d) Fire Safety Inspection

- 1) The Department shall request the Office of the State Fire Marshal (OSFM) to perform a fire safety inspection of homes when an initial application is being considered for licensure and when care will be provided on other than ground grade-level and for homes in multi-housing units, and submit a its-written recommendation of the inspection to the supervising agency of the day care home and to the applicant;
- 2) The fire safety inspection on single floor homes, at ground level grade with no unusual or complex code considerations, shall be completed following the list of items for fire safety inspection in Appendix E by a licensing representative trained by ~~the~~ OSFM to conduct that fire prevention inspection;
- 3) Prior to the Department issuance of a permit or a license, the day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.

e) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.

f) New Applications

- 1) A new application shall be filed when any of the following occurs:
 - A) When an application for a license has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;
 - B) When there is a failure to submit a completed application within 14 days after a change of the location of the day care home;
 - C) Not sooner than 12 months after the Department has revoked or

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refused to renew a license, after the previous license has been surrendered with cause, or refused to issue a full license to a permit holder, and a new license is sought.

- 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:
 - A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
 - B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 36 Ill. Reg. 13057, effective August 15, 2012)

Section 406.6 Provisions Pertaining to the License

- a) The licensees shall be a primary caregiver or caregivers who reside in the family home and meet the requirements of this Part. If there are joint licensees, they must be related and both must live in the family home.
- b) A day care home license is valid for 3 years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number and age of children under age 12 cared for in the day care home at any one time shall be in compliance with provision in Section 406.13. Increases in the license capacity or the ages of children served shall be with written approval of the supervising agency.
- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 406.13(h) in order to keep members of a sibling group together and the Department has approved the plan.
- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be

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transferred to another person or other legal entity.

- g) The license shall not be valid for a name or location other than the name and location on the license.
- h) No day care home provider shall be licensed to provide care for more than 18 hours within a 24-hour period.
- i) The license shall be prominently displayed in the home at all times.
- j) There shall be no fee or charge for the license.
- k) By September 1, 2012, the primary caregivers and assistants employed by the day care home shall become members of and participate in the Gateways to Opportunity Registry, with all educational and training credentials entered into the registry verified in accordance with procedures and requirements adopted by the Department of Human Services (see 89 Ill. Adm. Code 50.Subpart G). Newly hired staff serving children shall be members of the Gateways to Opportunity Registry within 30 days after hire.

(Source: Amended at 36 Ill. Reg. 13057, effective August 15, 2012)

Section 406.9 Characteristics and Qualifications of the Day Care Family

- a) No individual may receive a license from the Department when the applicant, a member of the household age 13 and over, or any individual who has access to the children cared for in a day care home, or any employee of the day care home, has not authorized the background check required by 89 Ill. Adm. Code 385 (Background Checks) and been cleared in accordance with the requirements of Part 385.
- b) Employees subject to background checks may begin employment on a conditional basis while awaiting the results of the background check. Such employees may not be alone with children until the results of the initial background check have been received.
- c) Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family

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home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part.

- d) Day care homes shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:
 - 1) death in the family of the person;
 - 2) serious illness of the person or illness in the person's immediate family; or
 - 3) weather or transportation emergencies.
- e) As a condition of licensure, each licensee or license applicant must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])
- f) If the licensees or license applicants acknowledge that they are more than 30 days delinquent in complying with an order for child support or, upon completion of the background check, the licensees or license applicants are found to be delinquent despite their certification, the Department shall deny the application for license, refuse to renew the license, or revoke the license unless the licensees or license applicants arrange for payment of past due and current child support and pay child support in accordance with that agreement.
- g) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- h) The caregiver is responsible for the day-to-day operation of the day care home in accordance with the standards prescribed in this Part.

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- i) The licensee shall be present in the home when day care children are in attendance unless a qualified substitute caregiver per Section 406.11 is present.
- j) The licensee and other adult members of the household in contact with day care children shall be stable, law abiding, responsible, mature individuals.
- k) The caregivers in a day care home shall be at least 18 years of age.
- l) Caregivers licensed after January 1, 2011 shall have proof of a high school diploma or equivalent certificate.
- m) The caregivers and all members of the household shall provide medical evidence as required by Section 406.24(ih) that they are free of reportable communicable disease, and, in the case of caregivers, free of physical or mental conditions that could interfere with the child care responsibilities.
- n) The licensee who is the primary caregiver shall be certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health.
- o) During the hours of operation of the day care home, there shall be at least one person on the premises certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross or the American Heart Association, or other entity approved by the Illinois Department of Public Health. The caregivers shall have on file current certificates attesting to the training.
- p) The caregiver shall successfully complete a Department approved basic training course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix D for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
 - 1) New licensee shall complete this training within 36 months from the issue date of the initial license.
 - 2) A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A

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certificate of training completion and a description of the course content must be submitted to the Department for approval.

- q) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition.
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals.
 - 3) The ability to communicate with children.
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse.
 - 5) Knowledge of the child's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning.
 - 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.
- r) The caregivers may not work or be employed outside the home during the hours that child care is being provided. Outside employment during hours that child care is not being provided shall not interfere with child care.
- s) The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 406.23(h), night care.
- t) The caregivers shall complete 15 clock hours of in-service training per licensing year in accordance with the requirements in Appendix D.
- 1) Such training may be derived from programs offered by any of the entities identified in Appendix D.
 - 2) Courses or workshops to meet this requirement include, but are not limited

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to, those listed in Appendix D.

- 3) The records of the day care home shall document the training in which the caregiver has participated, and these records shall be available for review by the Department.
 - 4) Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.
- u) Licensees or applicants shall not provide false or misleading information regarding their compliance with the applicable regulations.

(Source: Amended at 36 Ill. Reg. 13057, effective August 15, 2012)

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- 1) Heading of the Part: Licensing Standards for Day Care Centers
- 2) Code Citation: 89 Ill. Adm. Code 407
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
407.45	Amended
407.50	Amended
407.55	Amended
407.100	Amended
407.130	Amended
407.350	Amended
- 4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10/5.2], the Children's Product Safety Act [430 ILCS 125], the Lead Poisoning Prevention Act [410 ILCS 45/7.1], and the Missing Children Records Act [325 ILCS 50/5]
- 5) Effective Date of Amendments: August 15, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendments is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 4, 2011; 35 Ill. Reg. 17511
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In addition to editing and formatting corrections, the following amendments were made:
 - The Department has dropped the requirement that providers participate in the Tiered Quality Rating and Improvement System. Participation in this system remains voluntary and accessible to those enrolled in the Registry.
 - The requirement that currently licensed day care providers and their staff be enrolled and participate in the Gateways to Opportunity Registry program by July 1, 2012 was changed to September 1, 2012. All new applicants and those seeking renewal on or

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after September 1, 2012 will also be required to be enrolled and participate in the program.

- Language was added clarifying that the intent of enrolling in membership to the Gateway to Opportunity Registry is for primary caregivers and staff to submit their educational and training credentials to the Registry.
- The Department removed proposed changes to Section 407.60 that pertained to license approvals (whether initial or renewal) occurring on or after July 1, 2012, being automatically enrolled in the State Tiered Quality Rating and Improvement System. As noted previously, the Department made participation in the Tiered System voluntary, thus this proposed language was dropped from the rulemaking.
- The Department retained the requirement that all new directors hired on or after July 1, 2017 must have an associates degree in child development or early childhood. The additional requirement that an employee with an associates degree must also be on the premises at all times has been dropped.
- Language was added to the requirement that by December 28, 2012 all cribs in the day care center must meet the federal safety standard by showing crib manufacturer certificate. The added language states that in the absence of a manufacturer's certificate, proof that the crib was manufactured on or after June 28, 2011 meets the required standard.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: In addition to formatting and grammatical corrections, the Department is amending Part 407 as follows:

All day care centers staff assistants and directors must become members of the Gateways to Opportunity Registry by September 1, 2012. All new applicants must also show membership to the Registry at initial application.

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New hired directors on or after July 1, 2017 must have an associate degree in child development or early childhood.

By December 28, 2012, all day care centers with cribs must have new cribs that meet the federal standards.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 407

LICENSING STANDARDS FOR DAY CARE CENTERS

Section

407.1	Purpose (Repealed)
407.2	Definitions (Repealed)
407.3	Effective Date of Standards (Repealed)
407.4	Application for License (Repealed)
407.5	Application for Renewal of License (Repealed)
407.6	Provisions Pertaining to the License (Repealed)
407.7	Provisions Pertaining to Permits (Repealed)
407.8	Organization and Administration (Repealed)
407.9	Finances (Repealed)
407.10	General Requirements for Personnel (Repealed)
407.11	Child Care Director (Repealed)
407.12	Child Care Workers and Group Workers (Repealed)
407.13	Child Care Assistants (Repealed)
407.14	Use of Students (Repealed)
407.15	Service Staff (Repealed)
407.16	Substitutes and Volunteers (Repealed)
407.17	Background Inquiry (Repealed)
407.18	Admission and Discharge Procedures (Repealed)
407.19	Discipline (Repealed)
407.20	Personal Care and Hygiene (Repealed)
407.21	Program (Repealed)
407.22	Equipment and Materials (Repealed)
407.23	Grouping and Staffing (Repealed)
407.24	Nutrition (Repealed)
407.25	Night Care (Repealed)
407.26	Children with Special Needs (Repealed)
407.27	Infants and Toddlers (Repealed)
407.28	School-Age Children (Repealed)
407.29	Health Requirements for Children (Repealed)
407.30	Transportation (Repealed)
407.31	Plant and Equipment (Repealed)

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- 407.32 Records and Reports (Repealed)
- 407.33 Confidentiality of Records and Information (Repealed)
- 407.34 Records Retention (Repealed)
- 407.35 Severability of This Part (Renumbered)

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section

- 407.40 Purpose and Applicability
- 407.45 Definitions

SUBPART B: PERMITS AND LICENSES

- 407.50 Application for License
- 407.55 Application for Renewal of License
- 407.60 Provisions Pertaining to the License
- 407.65 Provisions Pertaining to Permits

SUBPART C: ADMINISTRATION

- 407.70 Organization and Administration
- 407.80 Confidentiality of Records and Information

SUBPART D: STAFFING

- 407.90 Staffing Structure
- 407.100 General Requirements for Personnel
- 407.110 Background Checks for Personnel
- 407.120 Personnel Records
- 407.130 Qualifications for Child Care Director
- 407.140 Qualifications for Early Childhood Teachers and School-age Workers
- 407.150 Qualifications for Early Childhood Assistants and School-age Worker Assistants
- 407.160 Students and Youth Aides
- 407.170 Substitutes
- 407.180 Volunteers
- 407.190 Grouping and Staffing

SUBPART E: PROGRAM REQUIREMENTS

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- 407.200 Program Requirements for All Ages
- 407.210 Special Requirements for Infants and Toddlers
- 407.220 Special Requirements for School-Age Children
- 407.230 Intergenerational Programs
- 407.240 Evening, Night, Weekend and Holiday Care

SUBPART F: STRUCTURE AND SAFETY

- 407.250 Enrollment and Discharge Procedures
- 407.260 Daily Arrival and Departure of Children
- 407.270 Guidance and Discipline
- 407.280 Transportation
- 407.290 Swimming and Wading
- 407.300 Animals

SUBPART G: HEALTH AND HYGIENE

- 407.310 Health Requirements for Children
- 407.320 Hand Washing
- 407.330 Nutrition and Meal Service
- 407.340 Diapering and Toileting Procedures
- 407.350 Napping and Sleeping
- 407.360 Medications

SUBPART H: FACILITY AND EQUIPMENT

- 407.370 Physical Plant/Indoor Space
- 407.380 Equipment and Materials
- 407.390 Outdoor Play Area

SUBPART I: SEVERABILITY OF THIS PART

- 407.400 Severability of This Part

- 407.APPENDIX A Equipment for Infants and Toddlers
- 407.APPENDIX B Equipment for Preschool Children
- 407.APPENDIX C Equipment for School-Age Children
- 407.APPENDIX D Infant Daily Food Requirements
- 407.APPENDIX E Meal Patterns and Serving Sizes for Child Care Programs

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- 407.APPENDIX F Resource Reference List
407.APPENDIX G Early Childhood Teacher Credentialing Programs
407.APPENDIX H Playground Surfacing and Critical Height

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 7.1 of the Lead Poisoning Prevention Act [410 ILCS 45/7.1] and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 9215, effective August 15, 1983; amended at 8 Ill. Reg. 8713, effective June 15, 1984; amended at 8 Ill. Reg. 24937, effective January 1, 1985; amended at 16 Ill. Reg. 7597, effective April 30, 1992; emergency amendment at 20 Ill. Reg. 11366, effective August 1, 1996, for a maximum of 150 days; emergency expired December 28, 1996; amended at 21 Ill. Reg. 923, effective January 15, 1997; amended at 22 Ill. Reg. 1728, effective January 1, 1998; amended at 24 Ill. Reg. 17036, effective November 1, 2000; amended at 28 Ill. Reg. 3011, effective February 15, 2004; amended at 29 Ill. Reg. 4502, effective March 15, 2005; amended at 34 Ill. Reg. 4700, effective March 22, 2010; amended at 36 Ill. Reg. 13076, effective August 15, 2012.

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section 407.45 Definitions

"Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

"Age-appropriate safety restraint" for a child under 4 years of age means a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) that meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child 4 years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Attendance" means the total number of children present at any one time.

"Authorized representative of the Department" means a licensing representative or any person acting on behalf of the Director of the Department.

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"Background check" means:

- a criminal history check via fingerprints of persons age 17 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other states' child protection systems, as appropriate, to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Illinois Sex Offender Registry.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])

"Child care staff" means all staff members providing direct care to children.

"Consultant" means a person providing technical assistance or advice regarding any aspect of the program operation.

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient,

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sanitizable fabric, that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care center" means any child care facility which regularly provides day care for less than 24 hours per day for more than 8 children in a family home or more than 3 children in a facility other than a family home, including senior citizen buildings. The term does not include:

- *programs operated by public or private elementary school systems or secondary level school units or institutions of higher learning that serve children who shall have attained the age of 3 years; or*
- *private entities on the grounds of public or private elementary or secondary schools that serve children who have attained the age of 3 years, except that this exception applies only to the facility and not to the private entities' personnel operating the program;*
- *programs or that portion of the program which serves children who shall have attained the age of 3 years and which are recognized by the State Board of Education;*
- *educational program or programs serving children who shall have attained the age of 3 years and which are operated by a school which is registered with the State Board of Education and which is recognized or accredited by a recognized national or multi-state educational organization or association which regularly recognizes or accredits schools;*
- *programs which exclusively serve or that portion of the program which serves handicapped children who shall have attained the age of 3 years but are less than 21 years of age and which are registered and approved as meeting standards of the State Board of Education and applicable fire marshal standards;*
- *facilities operated in connection with a shopping center or service, religious services or other similar facility where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available;*

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- *any type of day care center that is conducted on federal government premises;*
- *special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations;*
- *part day child care facilities, as defined in Section 2.10 of the Child Care Act of 1969; or*
- *programs or that portion of the program which:*
 - *serves children who shall have attained the age of 3 years,*
 - *is operated by churches or religious institutions as described in section 501(c)(3) of the federal Internal Revenue Code,*
 - *receives no governmental aid,*
 - *is operated as a component of religious, nonprofit elementary school,*
 - *operates primarily to provide religious education, and*
 - *meets appropriate State or local health and fire safety standards.*

For purposes of this Section, "children who shall have attained the age of 3 years" shall mean children who are 3 years of age, but less than 4 years of age, at the time of enrollment in the program. (Section 2.09 of the Child Care Act of 1969 [225 ILCS 10/2.09])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969 [225 ILCS 10/2.02])

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of tap water and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects.

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"Early childhood" means the years from birth through age 6.

"Early childhood assistant" means a staff member who works under the direct supervision of an early childhood teacher and does not assume responsibility for a group of children.

"Early childhood teacher" means a staff member responsible for a group of infants, toddlers or preschool children.

"Employee", as used in this Part, means any staff person employed by a child care facility and includes any substitute or assistant. This definition includes administrative, professional and support staff who have access to children in their present or prospective employment.

"Enrollment" means the total number of children served by the facility on either a part-time or full-time basis.

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of administrators and staff that allows them to establish a profile in the registry of their educational attainment and professional development.

"Governing body", as used in this Part, means the board of directors of a corporation. Otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the day care center that serves as the policy-making authority and that exercises general direction over the affairs of the facility.

"Group" means a specific number of children who remain together at least 60 percent of the time they are at the facility.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Guidance/discipline" means the ongoing process of helping children to develop inner controls so that they can manage their own behavior in socially approved ways.

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"Infant" means a child from 6 weeks through 14 months of age.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"Intergenerational activities" means activities that involve children and adults in shared activities that occur at least monthly on a regular basis.

"Kindergarten child" means a child currently enrolled in kindergarten who is eligible to attend first grade during the next school year.

"LEADS" means the Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License study", as used in this Part, means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the maximum number of children permitted in the facility at any one time.

"Licensee" means an individual, agency, or organization who holds a license or permit issued by the Department of Children and Family Services.

"Licensing representative", for the purposes of this Part, means Department staff authorized under the Child Care Act of 1969 to examine facilities for licensure.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Parents" or "Parent", as used in this Part, means persons assuming legal responsibility for the care and protection of the child on a 24-hour basis; includes

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guardian or legal custodian.

"Partially exempt program" means a child care program for children who have attained the age of 3 years and is operated by a private entity on grounds of a public or private elementary or secondary school where children have been attending school during the day. In a partially exempt program, the physical facility is exempt from Department regulations; however, the Department regulates the personnel and operating programs.

"Permit", as used in this Part, means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals, agency, or organization to operate a day care center and to become eligible for a full license.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Preschooler" means a child from 3 through 5 years of age. Children enrolled in kindergarten may be considered either preschool or school-age. Children 2 years of age may be considered preschoolers or toddlers, depending on their level of development.

"Program" means all activities provided for the children during their hours of attendance in the facility.

"Related services" refers to, but is not limited to, supportive services (psychological, medical, social, or health) for children in a facility.

"Replace or supplement staff" means a paid or unpaid individual who performs essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children outside the visual or auditory supervision of child care staff. It also includes professional contractual staff, such as physicians, nurses, therapists, etc., if the professional provides services within the facility and is allowed access to children outside the visual or auditory supervision of staff.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing

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specialized services to children.

"Resources" may include related services mentioned above and community agencies such as, but not limited to, libraries, university laboratories and their professional staffs, audiovisual materials, museums, and parks.

"Risk management plan" means a document that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"School-age" means a child up to 18 years of age who is enrolled in first grade or higher. Children attending kindergarten may be considered either preschool or school-age.

"School-age assistant" means a staff member who works under the direct supervision of a school-age worker.

"School-age director" means a person designated by the governing body to assume full administrative responsibility for the ongoing operation of one or more sites (not to exceed 6) and who meets the qualifications for a child care director as outlined in Section 407.130.

"School-age site coordinator" means a person responsible for implementing curriculum and ensuring that licensing standards are met at the site of a school-age program serving a maximum of 50 children and that is overseen by a school-age director responsible for multiple sites.

"School-age worker" means a staff member who has lead responsibility for a group of school-age children.

"Site" means the physical location in which a day care center operates. A site may consist of more than one building if all of the buildings within the site are connected by property under the exclusive control of the day care center that is used as a playground, for parking, or for other day care related purposes.

"Support staff" means any staff member providing indirect care and services to children in a day care center, such as a driver, cook, janitor, or clerical staff.

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"Swimming pool", for purposes of this Part, means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code. The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Toddler" means a child from 15 months to 2 years of age. The term may include a child up to 30 months of age depending upon physical or social development.

"Universal precautions" means an approach to infection control. According to the concept of Universal Precautions, all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

"Wading pool", for purposes of this Part, means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity as specified in the Illinois Swimming Pool and Bathing Beach Act and Code. The term includes recessed areas less than 2'6" in depth in swimming pools and includes wading pools at private clubs, health clubs and private residences when used for children enrolled in a child care facility.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

SUBPART B: PERMITS AND LICENSES

Section 407.50 Application for License

- a) The application for license shall be completed by the officers of the governing body of the day care center, or its authorized representative, on forms prescribed and furnished by the Department.
- b) Only complete applications shall be processed. Incomplete or unsigned applications shall be returned for completion and signature. For the application to be considered complete, the following shall be attached to the application form:
 - 1) Articles of incorporation and by-laws, if incorporated, indicating that the center's corporate status is in good standing with the Illinois Secretary of State;

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- 2) Statement of ~~purposes~~ purpose(s) and policies as required by Section 407.250(c);
 - 3) List of officers, board members and committees of the governing body;
 - 4) Annual operating budget showing anticipated expenses and income (required in original application~~s~~, only);
 - 5) Staffing plan ~~that~~which includes job descriptions and the qualifications of the staff;
 - 6) Written delegation of administrative authority as required by Section 407.70(b); and
 - 7) A list of persons subject to the background check requirements of 89 Ill. Adm. Code 385~~;~~ (Background Checks)~~;~~ and each person's complete, signed authorization to conduct the background check.
- c) Applications submitted on or after September 1, 2012 shall include proof of membership in the Gateways to Opportunity Registry by all staff and assistants and by the director of the facility with all their educational and training requirements entered into the registry.
- de) Upon receipt of a complete, signed application for a license, the Department shall conduct a license study in order to determine that the day care center meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The applicant shall receive a copy of the license study upon written request and payment of copying costs.
- ed) A new application shall be filed:
- 1) When an application for license has been withdrawn, and the center seeks to reapply;
 - 2) When there is a change of address of the day care center; and
 - 3) When there is a change of name, ownership or corporate status of the center.

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- fe)** If the Department has revoked or refused to renew the license of a day care center and the former licensee or one third or more of the members of its governing body seek to reapply for license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted, the Department shall impose provisions on the new license for a minimum of two years, notwithstanding any other provisions of this Part. *The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969 ~~this Act~~, or maintaining a facility which adheres to such standards and rules.* [225 ILCS 10/6(c)]
- gf)** The Department must approve that the facility is in reasonable compliance with the licensing standards before the day care center changes its operations regarding the number or ages of children served.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

Section 407.55 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to the day care center by the Department six months prior to the expiration date of the license.
- b) The application for the renewal of a day care center license must be completed, signed by the governing body or its authorized representative, and submitted to the Department three months prior to the expiration date of the current license in order for the application to be considered timely and sufficient. In addition, revisions in items required by Section 407.50(b) which have not been submitted previously to the Department shall accompany the application for the renewal of a license.
- c) When a licensed day care center seeks to change its name, address, corporate status or ownership, a new application reflecting the revised status must be completed, signed by the governing body or its authorized representative, and submitted to the Department 30 days prior to the effective date of the change(s) in order for the application to be considered timely and sufficient. In addition, a change of name, corporate status or ownership shall be documented by the filing of a copy of the amended articles of incorporation or ownership agreement with

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the Department within 30 days after its effective date.

- d) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court. (Section 10-65(b) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(b)])*
- e) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the day care center continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensee shall receive a copy of the license study upon written request and payment of copying costs.
- f) For renewal applications submitted on or after September 1, 2012, the licensee shall provide proof of membership in the Gateways to Opportunity Registry by all staff and assistants and by the director of the facility with all their educational and training requirements entered into the registry.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

SUBPART D: STAFFING

Section 407.100 General Requirements for Personnel

- a) Staff shall be able to demonstrate the skill and competence necessary to contribute to each child's physical, intellectual, personal, emotional, and social development. Factors contributing to the attainment of this standard include:
- 1) Emotional maturity when working with children;
 - 2) Cooperation with the purposes and services of the program;
 - 3) Respect for children and adults;
 - 4) Flexibility, understanding and patience;

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- 5) Physical and mental health that do not interfere with child care responsibilities;
 - 6) Good personal hygiene;
 - 7) Frequent interaction with children;
 - 8) Listening skills, availability and responsiveness to children;
 - 9) Sensitivity to children's socioeconomic, cultural, ethnic and religious backgrounds, and individual needs and capabilities;
 - 10) Use of positive discipline and guidance techniques; and
 - 11) Ability to provide an environment in which children can feel comfortable, relaxed, happy and involved in play, recreation and other activities.
- b) Child care staff, in addition to meeting the requirements of subsection (a) of this Section, shall generally demonstrate skill and competence necessary to assume direct responsibility for child care including:
- 1) Skills to help children meet their developmental and emotional needs; and
 - 2) Skills in planning, directing, and conducting programs that meet the children's basic needs.
- c) Child care staff shall be willing to participate in activities leading to professional growth in child development and education, and in training related to the specific needs of the children served.
- 1) The director and each child care staff member shall participate in 15 clock hours of in-service training per year. For the first year of employment, topics ~~that~~^{which} must be included in the training are staff requirements to recognize and report suspected child abuse or neglect, how to make a child abuse or neglect report, rules governing the operation of the facility, and the legal protection afforded to persons who report violations of licensing standards. Subsequent in-service training may include, but shall not be limited to, child development, symptoms of common childhood illnesses, hygiene, guidance and discipline, and communication with parents.

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- 2) A record of in-service training shall be maintained at the site.
- 3) The required in-service training hours may consist of on-site training; documented attendance at seminars, workshops, conferences and early childhood classes; and documented self-study programs that have been approved by the day care center director. Staff meetings may be counted only if a planned in-service program is presented.
- 4) Staff serving children who require special program services shall receive in-service training and/or consultation on issues related to those specific needs.
- 5) By September 1, 2012, all child care staff employed by the day care center, assistants and the director shall become members of the Gateways to Opportunity Registry, with all educational and training credentials entered into the registry verified in accordance with procedures and requirements adopted by the Department of Human Services (see 89 Ill. Adm. Code 50.Subpart G). Newly hired staff serving children shall become members of the Gateways to Opportunity Registry within 30 days after hire.
- d) Newly employed staff shall submit a report of a physical examination completed no more than six months prior to employment ~~that which~~ provides evidence that they are free of communicable disease, including active tuberculosis, and physical or mental conditions that could affect their ability to perform assigned duties. This examination shall include a test for tuberculosis by the Mantoux method.
- e) Cooks, kitchen helpers and others assisting in the preparation, serving and handling of food and cooking/serving utensils shall make their positions known to the examining physician, and shall comply with the current rules and regulations of the Illinois Department of Public Health pertaining to Food Service Sanitation (77 Ill. Adm. Code 750).
- f) Staff shall have physical re-examinations every two years and whenever communicable disease or illness is suspected.
- g) A staff member experiencing fever, sore throat, vomiting or diarrhea shall not be responsible for food handling or the care of children.

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- h) The center shall have on duty at all times at least one staff member who has successfully completed training and is currently certified in first aid, cardiopulmonary resuscitation (CPR) and the Heimlich maneuver, and for centers serving infants, first aid for choking infants in accordance with the approved method specified in the Department of Public Health's rules 77 Ill. Adm. Code 520, (The Treatment of Choking Victims). CPR certification must be specific for all age groups served, i.e., infant (birth to 12 months), child (one to eight years) and adult (eight years and older).
- i) Any center that serves food shall have posted in a conspicuous location visible to employees the Choke Saving Methods Poster available from the Illinois Department of Public Health.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

Section 407.130 Qualifications for Child Care Director

- a) Day care centers licensed for more than 50 children shall employ a full-time child care director to be on site in a non-teaching capacity. The director may be on site in a teaching capacity at the following times:
- 1) During the first hour and last hour of a program that operates 10 or more hours per day; or
 - 2) When attendance falls below 50 children.
- b) Day care centers licensed for 50 or fewer children, or half-day programs with children attending no more than 3 consecutive hours per day regardless of capacity, may employ a child care director who also serves as a member of the child care staff.
- 1) When the director serves in both capacities, he or she must meet the qualifications of both the director position and the teaching position.
 - 2) When the director attends to non-teaching responsibilities, his or her group must be supervised by a person qualified to be in charge of the group.
- c) The child care director shall be at least 21 years of age.

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- d) The child care director shall have a high school diploma or equivalency certificate (GED).
- e) In addition to meeting the requirements of Section 407.100, the child care director of a facility serving the same number of groups of pre-school and school-age children or more groups of pre-school children than groups of school-age children shall have achieved:
 - 1) Sixty semester or 90 quarter hours of credit from an accredited college or university with 18 semester or 27 quarter hours in courses related directly to child care and/or child development from birth to age 6; or
 - 2) Two years (3120 clock hours) of child development experience in a nursery school, kindergarten, or licensed day care center, 30 semester or 45 quarter hours of college credits with ten semester or 15 quarter hours in courses related directly to child care and/or child development, and proof of enrollment in an accredited college or university until two years of college credit have been achieved. A total of 18 semester or 27 quarter hours in courses related directly to child care and/or child development is required to be obtained within the total two years of college credits; or
 - 3) Completion of a credentialing program approved in accordance with Appendix G of this Part, completion of 12 semester or 18 quarter hours in courses related to child care and/or child development from birth to age 6 at an accredited college or university, and 2 years (3120 clock hours) child development experience in a nursery school, kindergarten or licensed day care center.
- f) In addition to meeting the requirements of Section 407.100, the child care director of a facility serving more groups of school-age children than groups of pre-school children shall have achieved:
 - 1) Sixty semester or 90 quarter hours of credit from an accredited college or university with 18 semester or 27 quarter hours in courses related to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, including courses related to school-age children; or

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- 2) Two years (3120 clock hours) of child development experience in a recreational program, kindergarten, or licensed day care center serving school-age children, or license exempt school-age child care program operated by a public or private school, 30 semester or 45 quarter hours of college credits with 10 semester or 15 quarter hours in courses related directly to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, and proof of enrollment in an accredited college or university until two years of college credit have been achieved. A total of 18 semester or 27 quarter hours in courses related directly to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, including courses related to school-age children, is required to be obtained within the total two years of college credits.
- g) Completion of a training program accredited by the American Montessori Society or Association Montessori International may be substituted for the courses directly related to child care and/or child development required by this Section. Persons holding a Montessori pre-primary credential may serve as director to children through age six. Persons holding a Montessori primary or elementary credential may serve as director to children six years of age or older.
- h) Persons who were deemed qualified to serve as a child care director prior to January 1, 1985, continue to be deemed qualified for their position.
- i) When a program serves only school-age children and meets the criteria of Section 407.90(c), qualifications for the school-age director responsible for multiple sites and the site coordinators shall be as follows:
 - 1) The school-age director and each site coordinator shall be at least 21 years of age.
 - 2) The school-age director shall meet both of the following requirements for education and experience:
 - A) Sixty semester or 90 quarter hours of credit from an accredited college or university, with 18 semester or 27 quarter hours in courses related to school-age child care, child development, elementary education, physical education, recreation, camping or other related fields; and

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- B) At least 1560 clock hours of child development experience in a recreational program or a licensed day care center serving school-age children.
- 3) The school-age site coordinators must meet one of the following qualifications:
- A) Thirty semester or 45 quarter hours of credit from an accredited college or university with 12 semester or 18 quarter hours related to school-age child care, child development, elementary education, physical education, recreation, camping or other related fields and 750 clock hours of experience in a recreational program or a licensed day care center serving school-age children or in a license exempt school-age child care program operated by a public or private school; or
 - B) 1560 clock hours of experience in a recreational program or licensed day care center serving school-age children or license exempt school-age child care program operated by a public or private school and either 6 semester hours or 9 quarter hours of credit from an accredited college or university related to school-age child care, child development, elementary education, physical education, recreation, camping or other related fields.
- j) A staff member who meets the qualifications for a day care center director shall be designated to assume decision-making responsibility whenever the child care director is off site. A record of employees who meet the qualifications for director and who have been designated to assume decision-making responsibility in the director's absence shall be kept at the site. All day care staff shall be informed of the designated director at each occurrence. The person designated as alternate director may be in the classroom and counted in the staff/child ratio under the following circumstances:
- 1) When the center meets the criteria of subsection ~~Section~~ 407.130(b); or
 - 2) During the first hour and last hour of a program that operates 10 or more hours per day; or

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- 3) When attendance falls below 50 children.
- k) The child care director must successfully complete a basic training course of 6 or more clock hours on providing care to children with disabilities that has been approved by the Department. The day care center shall have on file a certificate attesting to the training of the child care director.
- 1) Persons employed as a child care director shall complete this training within 36 months from date appointed as child care director.
 - 2) A child care director who has completed training prior to employment may have that training approved as meeting the provisions of this subsection (k). A certificate of training completion and a description of the course content must be submitted to the Department for approval.
 - 3) A child care director who obtains approved training and moves from one day care facility to another shall not be required to take another training course as long as the child care director can provide documentation in the form of a certificate that the training was completed.
 - 4) A training program approved by the Department in providing care for children with disabilities must include the following components:
 - A) Introduction to Inclusive Child Care;
 - B) Understanding Child Development in Relation to Disabilities;
 - C) Building Relationships With Families;
 - D) Preparing for and Including Young Children in the Child Care Setting;
 - E) Community Services for Young Children With Disabilities (including Early Intervention Services).
- l) All new child care directors hired on or after July 1, 2017 shall have a minimum of an associate's degree in child development or early childhood education.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

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SUBPART G: HEALTH AND HYGIENE

Section 407.350 Napping and Sleeping

- a) When a child's time in attendance at the day care center requires sleep or nap provisions, the center shall provide a separate crib, bed or cot and individual sheets and bedding.
 - 1) Children under 6 years of age who are not enrolled in kindergarten or elementary school who remain 5 or more hours shall have the opportunity to rest or nap.
 - 2) Infants and toddlers shall be allowed to rest or sleep according to each child's individual pattern, as determined in consultation with parents.
 - 3) Children 3 years of age and older (until they are enrolled in kindergarten) generally shall not nap for more than 2 hours or rest without sleeping for more than 60 minutes. Children in this age group who do not sleep may be permitted to get up and shall be helped to have a quiet time with equipment or activities that will not disturb the napping children. When children are allowed to get up, the staff to child ratio shall comply with Section 407.190(a).
 - 4) Kindergarten and school-age children shall not be required to sleep or nap. However, floor pillows, sofa, carpet, bean bag chairs, padded chairs or cots shall be provided for lounging or resting.
- b) The crib, bed or cot provided for each child shall be appropriate to the child's level of development.
 - 1) Infants shall sleep in cribs.
 - A) Safe, sturdy, well-constructed free-standing cribs or portable cribs used for sleeping shall be equipped with a good, firm, tight-fitting mattress.
 - B) Mattresses shall be at least 2 inches thick and made of washable materials.

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- C) There shall be no more than ½ inch of space between the mattress and the bed frame when the mattress is pushed flush to one corner of the crib.
- D) When using cribs with slats, cribs slats shall be spaced no more than 2¾ inches apart.
- E) By December 28, 2012, the day care center shall obtain certification that all cribs used by the center meet or exceed the federal safety standards in 16 CFR 1219 or 1220 (2011). This certification from the manufacturer shall be available for inspection by the licensing representative. In the absence of a manufacturer's certificate, proof that the crib was manufactured on or after June 28, 2011 will meet the required standard.
- 2) Toddlers may use either stacking cots or full-size cribs.
- 3) A cot or bed shall be provided for each toddler and preschool child in attendance for 5 or more consecutive hours. A crib shall be provided for each licensed infant slot, regardless of the amount of time the child is present.
- c) Each cot, bed or crib shall be labeled with the name of the child.
- d) Cribs, beds and cots shall be maintained in clean and sanitary conditions.
- 1) Cribs, beds and cots shall be wiped clean as often as necessary. Cribs shall be cleaned twice per week and then sanitized with a germicidal solution. Cots shall be cleaned once per week with a germicidal solution.
- 2) All cribs, beds or cots shall be thoroughly cleaned and then sanitized with a germicidal solution when a child is no longer enrolled, prior to use by another child.
- 3) At no time shall 2 children be allowed to share the same crib, bed or cot unless it is thoroughly cleaned and then sanitized with a germicidal solution before each child's use.

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- e) Freshly laundered sheets and blankets shall be provided and changed at least twice per week for infants and toddlers and at least once per week for preschool children, or more frequently if wet or soiled.
- f) Bed linens shall be tightly fitting and washable.
- g) Waterproof mattress covers or under sheets for cribs, beds or cots shall be provided for all children who are enuretic.
- h) Conveniently located, washable, plastic-lined, covered receptacles shall be provided for soiled bed linens.
- i) To minimize the risk of sudden infant death syndrome, children shall be placed on their backs when put down to sleep according to the following guidelines:~~that follow~~.
 - 1) When the infant cannot rest or sleep on his or her back due to a disability or illness, the caregiver shall have written instructions, signed by a physician, detailing an alternative safe sleep position or special sleeping arrangements for the infant. The caregiver shall put the infant to sleep in accordance with a physician's written instructions;
 - 2) Infants that can easily turn over from the back to stomach position shall be placed down to sleep on their backs, but allowed to adopt their preferred position while sleeping;
 - 3) No infant shall be put to sleep on a sofa, soft mattress, car seat or swing; and
 - 4) When awake, an infant shall be placed on his or her stomach part of the time and observed at all times.
- j) No positioning device that restricts movement within the child's bed shall be used without written instructions from the child's physician. Soft bedding, bumpers, pillows, quilts, comforters, sheepskins, stuffed toys and other soft products shall be removed from the crib when children are napping or sleeping. If using a blanket, put the child with his or her feet at the foot of the crib. Tuck a thin blanket around the crib mattress, reaching only as far as the child's chest.

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- k) Staffing during nap times shall be in accordance with Section 407.190(e). When non-sleeping children are allowed to get up, staffing shall be in accordance with Section 407.190(a).
- l) When children are sleeping or napping, the room shall have reduced light but shall not be dark.

(Source: Amended at 36 Ill. Reg. 13076, effective August 15, 2012)

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- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 408
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
408.5	Amend
408.10	Amend
408.20	Amend
408.35	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Child Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3]
- 5) Effective Date of Amendments: August 15, 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 is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: November 4, 2011; 35 Ill. Reg. 17541
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between Proposal and Final Version:
 - The Department has dropped the requirement that providers participate in the Tiered Quality Rating and Improvement System. Participation in this system remains voluntary and accessible to those enrolled in the Registry.
 - The requirement that currently licensed day care providers be enrolled and participate in the Gateways to Opportunity Registry program by July 1, 2012 was changed to September 1, 2012. All new applicants and those seeking renewal on or after September 1, 2012 will also be required to be enrolled and participate in the program.

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- Language was added clarifying that the intent of enrolling in membership to the Gateway to Opportunity Registry is for primary caregivers to submit their educational and training credentials to the Registry.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part?

<u>Section Numbers:</u>	<u>Adopted Action:</u>	<u>Illinois Register Citation:</u>
408.30	Amend	April 13, 2012; 36 Ill. Reg. 5678

- 15) Summary and Purpose of Amendments: By September 1, 2012, the primary caregivers and assistants employed by the group day care home shall become a member of and participate in the Gateways to Opportunity Registry, with all educational and training credentials entered into the registry. Newly hired staff serving children shall also become members of the Gateways to Opportunity Registry within 30 days after hire.

New applicants on or after September 1, 2012 shall provide proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the home with all educational credentials and pre-service training entered into the registry

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

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application For License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
408.55	Substitutes
408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part
408.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age

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408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], and Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. 18411, effective December 15, 2010; amended at 36 Ill. Reg. 4114, effective March 5, 2012; amended at 36 Ill. Reg. 13105, effective August 15, 2012.

Section 408.5 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

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"Adult" means a person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the group day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the group day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide

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Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an ~~affective~~effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

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"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Department" means the Illinois Department of Children and Family Services. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart of water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Extended capacity" means an addition of 4 school age children who may be accepted in accordance with 408.65(c). This allows the maximum capacity in a group day care home to reach 16.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

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"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any other surface that is not above or below the ground.

"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. (Section 2.20 of the Child Care Act of 1969 [225 ILCS 10/2.20])

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the group day care home can care for at any one time, in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

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"Licensing year", often called the anniversary year, means the period of time from the date a group day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals to become eligible for a license.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois

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or a contiguous state.

"Premises" means the location of the group day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the group day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the group day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to children with special needs.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurement of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance

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located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing which exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 36 Ill. Reg. 13105, effective August 15, 2012)

Section 408.10 Application For License

a) A complete application shall be filed with the Department of Children and Family Services on forms prescribed and provided by the Department.

b) Contents~~Content~~ of Application

1) A complete application shall include:

A) a completed, signed and dated Application for Home License;

B) a list of persons who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over;

C) completed, signed and dated authorizations to conduct the background check for the applicant, each employee or person used to replace or supplement staff, and each member of the household

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age 13 and over;

- D) a completed, signed and dated Child Support Certification form;
- E) documentation that the applicant meets the qualifications for a caregiver in Section 408.45(e);
- F) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;
- G) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic, construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs; ~~and~~
- H) a copy of high school diploma or equivalent certificate; ~~and~~
- I) for applications submitted on or after September 1, 2012, proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the group day care home with all educational credentials and pre-service training entered into the registry.

- 2) For initial applications submitted after January 1, 2011, the applicant shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix G, which shall include:
 - A) Sudden Infant Death Syndrome (SIDS);
 - B) Shaken Baby Syndrome; and
 - C) Department approved Mandated Reporter training.
- c) Fire Safety Inspection

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- 1) For initial applications of group day care homes in multi-housing units, or single family dwellings in which care will be provided on other than ~~ground~~grade level, the Department shall request a fire safety inspection from the Office of the State Fire Marshal (OSFM). OSFM shall submit its written recommendation to the supervising agency of the group day care home and to the applicant;
 - 2) The fire safety inspection on single floor homes at ~~ground level~~ grade with no unusual or complex code considerations shall be completed following the list of items for fire ~~safety~~ inspection in Appendix I by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to Department issuance of a permit or a license, the group day care home shall have written approval by OSFM or staff trained by ~~the~~ OSFM, indicating the home meets fire safety requirements.
- d) Licensed group day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- e) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the Department shall conduct a license study to determine if the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. A license may not be recommended without the receipt of at least three positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- f) New Applications
- 1) A new application shall be filed when any of the following occurs:
 - A) When an applicant or licensee seeks to reapply for a license after it has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;
 - B) When there is a failure to submit a completed application within 14

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- days after a change of residence or ~~the~~ location of the group day care home;
- C) When 12 months have elapsed and the applicant seeks to reapply for a license after:
- i) the Department has revoked or refused to renew a license;
 - ii) the previous license has been surrendered with cause; or
 - iii) The Department has refused to issue a full license to a permit holder.
- 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:
- A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
 - B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 36 Ill. Reg. 13105, effective August 15, 2012)

Section 408.20 Provisions Pertaining to the License

- a) The licensees shall be a primary caregiver or caregivers who reside in the family home and meet the requirements of this Part. Further, the licensees shall be an individual, a man and woman married to each other or 2 persons related by blood, marriage, or adoption who reside in the family home.
- b) A group day care home license is valid for three years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number and ages of children under age 12 cared for in the group day care home at any one time shall be in compliance with provisions in Section 408.65. Increases in the license capacity or the ages of children served shall be with

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written approval of the supervising agency.

- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 408.65(e) in order to keep members of a sibling group together, and the Department has approved the plan.
- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- g) The license shall not be valid for a name or an address other than the name and address on the license.
- h) No group day care home provider shall be licensed to provide care for more than 18 hours within a 24-hour period.
- i) The license shall be prominently displayed in the home at all times.
- j) There shall be no fee or charge for the license.
- k) By September 1, 2012, primary caregivers and assistants employed by the group day care home shall become members of and participate in the Gateways to Opportunity Registry, with all educational and training credentials entered into the registry verified in accordance with procedures and requirements adopted by the Department of Human Services. Newly hired staff serving children shall become members of the Gateways to Opportunity Registry within 30 days after hire.

(Source: Amended at 36 Ill. Reg. 13105, effective August 15, 2012)

Section 408.35 General Requirements for Group Day Care Home Family

- a) Each person subject to background checks, as defined in Section 408.5, shall authorize the background check required by 89 Ill. Adm. Code 385 (Background Checks) and be cleared in accordance with the requirements of Part 385.
- b) When notified by the Department that an employee, member of the household or

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other person in frequent contact with children at the facility is the subject of a formal investigation for child abuse or neglect pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the licensee shall take reasonable action to insure that the employee or other person is restricted from contact with children whose care has been entrusted to the facility during the pending investigation. Such reasonable action includes, but is not limited to, barring or removing the person from the facility or assuring that another adult is always present when the subject of the investigation is in contact with children.

- c) The licensee shall be present in the home when children are in attendance unless a qualified substitute caregiver, per Section 408.55, is present.
- d) Licensees and other adult members of the household in contact with group day care children shall be stable, law abiding, responsible, mature individuals.
- e) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- f) The caregivers and all members of the household shall provide medical evidence that they are free of communicable disease that may be transmitted while providing child care; and, in the case of caregivers, that they are free of physical or mental conditions that could interfere with child care responsibilities. The medical report for the caregivers shall be valid for 3 years.
- g) Caregivers and members of the household shall have a tuberculin skin test administered by the Mantoux method in accordance with the rules of the Department of Public Health (77 Ill. Adm. Code 690.720).
- h) Should the caregivers or any member of the household be diagnosed as having a communicable disease for which isolation is required by the Department of Public Health (IDPH) or local health department, the group day care home shall not provide child care until notified by the public health agency that the infectious period has elapsed and that child care may resume. Further, if a child care assistant or substitute who does not reside in the group day care home has been diagnosed as having a communicable disease for which isolation is required, that person shall be barred from the home until the presence of such person is authorized by the IDPH or the local health department.
- i) During hours of operation of the group day care home, there shall be at least one

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person on the premises certified in first aid, the Heimlich maneuver and cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health. CPR certification shall be for the age range of children in care. The caregivers shall have on file current certificates attesting to the training.

- j) The operators of the group day care home shall carry public liability insurance in the single limit minimum amount of \$100,000 per occurrence.
- k) Persons, including members of the household, counted in the staff-to-child ratio required by Section 408.65 must be present, awake and free from responsibilities other than those directly related to the care and supervision of children when children are present, except as allowed by Section 408.115 for night care. Responsibilities that are directly related to the care and supervision of children may include light housekeeping to maintain the areas wherein child care is provided.
- l) Caregivers, assistants and other persons shall not consume alcohol in the presence of children. A caregiver or child care assistant who appears to be under the influence of alcohol or other drug shall not have responsibility of the care of children.
- m) If the group day care home receives children for night-time care, the caregiver may sleep while children are present if the caregiver and the children sleep on the same floor (level) of the residence and the children's bedrooms are within hearing distance of the caregiver's bedroom.
- n) No person shall smoke tobacco in the group day care home while services are being provided to children. In addition, no person shall smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services (see PA 95-17 and 225 ILCS 10/5.5).
- o) The licensee shall successfully complete a Department approved basic course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix G for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
 - 1) Current license holders shall complete this training within 36 months from November 15, 2003.

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- 2) New licensees shall complete this training within 36 months from the issue date of the initial license.
 - 3) A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A certificate of training completion and a description of the course content must be submitted to the Department for approval.
- p) Any children under age 12 living in the home who are receiving home schooling shall be counted in the maximum of 12 children in Section 408.65(a) and (b), unless another parent or caregiver is providing the schooling apart from the day care area and the caregiver has no responsibility for the care or supervision or schooling of the children during the hours home day care is provided.

(Source: Amended at 36 Ill. Reg. 13105, effective August 15, 2012)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Public Information, Rulemaking, and Organization
- 2) Code Citation: 2 Ill. Adm. Code 1700
- 3) Section Number: 1700.20 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], Section 2.05 of the Open Meetings Act [5 ILCS 120/2.05], and 2-107 of the Public Utilities Act [220 ILCS 5/2-107], and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101]
- 5) Effective Date of Amendment: August 15, 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 amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: This amendment is adopted pursuant to Section 5-15 of the Illinois Administrative Procedure Act and was not published as a proposed amendment in the *Illinois Register*.
- 10) Has JCAR issued a Statement of Objection to this amendment? This amendment is adopted pursuant to Section 5-15 of the Illinois Administrative Procedure Act and was not submitted to JCAR for prior review.
- 11) Differences between proposal and final version: There are no differences because, under Section 5-15 of the Illinois Administrative Procedure Act, there is no proposed version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? This amendment was adopted under Section 5-15 of the Illinois Administrative Procedure Act, and there has thus been no prior review by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of amendment: Section 1700.20 was originally adopted to implement a 2007 amendment to Section 2-107 of the Public Utilities Act [220 ILCS 5/2-107]. The statute, as amended by PA 95-127, required the Commission to accept comments from Illinois residents regarding any matter under the auspices of the Commission or before the Commission. The amendment now adopted by the Commission concerns public comments that contain hyperlinks to other websites. It is virtually impossible to ensure that all such links are safe. Security risks for those viewing the comments include the possibility that the link, or the webpage associated with it, contains some form of malware. In addition, there is a possibility that a link provided in a comment could refer viewers to a site containing content that is offensive, harassing, threatening, or violent. The rules are therefore amended to provide that comments will be reviewed to ensure that their content does not contain links to other website addresses.
- 16) Information and questions regarding this rulemaking shall be directed to:

Patrick A. Foster
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

217/785-8439

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER IX: ILLINOIS COMMERCE COMMISSIONPART 1700
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC ACCESS

Section

- 1700.10 Accessibility of Commission Meetings
1700.20 Public Comment through the Commission's Web Site and by Telephone

SUBPART D: NOTICE OF INQUIRY PROCEDURES

Section

- 1700.310 Initiation of Notice of Inquiry
1700.320 Notice
1700.330 Content of Notice
1700.340 Comments and Replies
1700.350 Form of Comments and Replies; Number of Copies
1700.360 NOI Proceedings

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], Section 2.05 of the Open Meetings Act [5 ILCS 120/2.05], and Section 2-107 of the Public Utilities Act [220 ILCS 5/2-107] and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Adopted at 8 Ill. Reg. 6664, effective May 1, 1984; amended at 31 Ill. Reg. 16734, effective December 10, 2007; amended at 32 Ill. Reg. 2581, effective February 1, 2008; amended at 34 Ill. Reg. 16359, effective October 15, 2010; amended at 36 Ill. Reg. 13123, effective August 15, 2012.

SUBPART A: PUBLIC ACCESS

Section 1700.20 Public Comment through the Commission's Web Site and by Telephone

- a) Any Illinois resident may comment regarding any matter under the auspices of the Commission or before the Commission through the Commission's website

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(www.icc.illinois.gov) or through a toll-free telephone number. All persons making comments must provide their name and the city, village, or other locality in Illinois in which they reside. In addition, persons commenting through the Commission's website must provide their e-mail address for verification purposes, although the e-mail address will not be posted publicly. Comments made on the Commission's website, or transcribed comments made by phone, may not be longer than 5,000 characters.

- b) Comments received through the Commission web site will be reviewed to ensure that their content does not contain links to website addresses and is not obscene, profane, defamatory, or otherwise inappropriate for public posting. All comments regarding formal proceedings before the Commission will be publicly posted in the section of e-Docket designed to display public comments, along with the name and locality of residence of the person making the comment.
- c) Comments received through the Commission's toll-free telephone number will be transcribed, and will not be publicly posted if their content contains links to website addresses or is obscene, profane, defamatory, or otherwise inappropriate for public posting. Comments regarding formal proceedings before the Commission will be publicly posted in the section of e-Docket designed to display public comments, along with the name and locality of residence of the person making the comment.
- d) In formal proceedings before the Commission in which public comments have been posted on e-Docket, the Administrative Law Judge in the case or another Commission employee designated by the Executive Director will report the comments that have been posted to the full Commission, before the Commission votes on the matter. Parties to a formal proceeding before the Commission may respond to public comments by filing their own comments in the same section of e-Docket.
- e) Public comments received through the Commission's website or toll-free number that pertain to a matter that is before the Commission other than as a formal docketed proceeding will be forwarded to the Commission Staff member or members responsible for presenting the matter to the Commission, who will report the comments to the full Commission before the Commission votes on the matter.

(Source: Amended at 36 Ill. Reg. 13123, effective August 15, 2012)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Internet Enrollment Rules
- 2) Code Citation: 83 Ill. Adm. Code 453
- 3) Section Number: 453.40 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Article XVI of the Public Utilities Act [220 ILCS 5/Art. XVI] and implementing and authorized by Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE]
- 5) Effective Date of Amendment: August 1, 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 amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 12, 2011; 35 Ill. Reg. 13017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment? The amendment repeals a soon to be obsolete provision allowing customers to cancel electronic enrollment with a retail electronic supplier within 3 days after enrollment.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS COMMERCE COMMISSION

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Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

217/785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 453
INTERNET ENROLLMENT RULES

Section

453.10	Definitions
453.20	Criteria by Which to Judge the Validity of an Electronic Signature
453.30	Method by Which the Authenticity of Electronic Signatures May Be Proven
453.40	Additional Requirements for an Electronic <u>Letter of Agency (LOA)</u>

AUTHORITY: Implementing and authorized by Article XVI of the Public Utilities Act [220 ILCS 5/Art. XVI] and implementing and authorized by Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE].

SOURCE: Adopted at 27 Ill. Reg. 9017, effective July 1, 2003; amended at 36 Ill. Reg. 13127, effective August 1, 2012.

Section 453.40 Additional Requirements for an Electronic Letter of Agency (LOA)

- a) In addition to the information and structure set out for ~~an~~ LOA in 815 ILCS 505/2EE, by virtue of being in electronic form, an electronic LOA must provide the following additional information:
- 1) The means by which any future correspondence between the customer and RES will be sent;
 - 2) Whether the customer has the option to receive correspondence via the United States Postal Service or electronic means; and
 - 3) That the customer may opt to receive a written copy of the contract. ~~;~~ and
 - 4) ~~A conspicuous statement, within the body of the electronic version of the contract, that residential customers may cancel the enrollment within 3 business days after the Internet enrollment.~~

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- b) In addition to the procedures set out for a RES in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE], the RES also must abide by the following procedures when utilizing electronic LOAs:
- 1) Ensure that the customer provides all information necessary to complete the electronic LOA through a securely encrypted input procedure that meets or exceeds current industry practices;
 - 2) Ensure that the customer indicates by a separate affirmative act that it has the authority to execute the electronic LOA;
 - 3) Ensure that the customer understands and assents to the LOA;
 - 4) Include a version number in the body of the electronic LOA in order to permit verification of the particular LOA to which the customer assents;
 - 5) Prompt the customer to print or save a copy of the electronic LOA;
 - 6) Immediately send a message to the customer's registered e-mail account acknowledging receipt of the electronic LOA;
 - 7) Retain the electronic LOA for a period of at least five years after execution; and
 - 8) Provide a written and/or electronic copy of the LOA to the Commission or its Staff, the customer, or the customer's incumbent RES upon request.
- c) In the event of any conflict between this Section and the requirements for RESs and LOAs provided in electric utility tariffs on file with the Commission July 1, 2003~~the effective date of this Part~~, this Section shall control.

(Source: Amended at 36 Ill. Reg. 13127, effective August 1, 2012)

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- 1) Heading of the Part: Illinois Elevator Safety Rules
- 2) Code Citation: 41 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1000.20	Amendment
1000.30	Amendment
1000.40	Amendment
1000.50	Amendment
1000.60	Amendment
1000.70	Amendment
1000.75	New
1000.80	Amendment
1000.90	Amendment
1000.100	Amendment
1000.110	Amendment
1000.120	Amendment
1000.130	Amendment
1000.140	Amendment
1000.145	New
1000.150	Amendment
1000.170	Amendment
1000.180	Amendment
1000.190	New
- 4) Statutory Authority: Implementing and authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35]
- 5) Effective Date of Rulemaking: October 1, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.

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- 9) Notice of Proposed Amendments published in the Illinois Register: October 7, 2011; 35 Ill. Reg. 15819
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Changes made between the proposed and adopted versions: The only changes made were those agreed upon with JCAR, and also included grammatical, punctuation, formatting, stylistic and similar non-substantive changes as suggested by or agreed to by JCAR.

The more significant changes included the following:

--clarified (in Section 1000.20(c)) that personnel hoists and employee elevators are not covered by these rules if used for construction and demolition operations;

--made changes to rule language (in Sections 1000.30, 1000.140, 1000.150 and 1000.180) to reflect the current role of the Local Administrator by adding the words "or the Local Administrator" immediately after "OSFM" and by making similar changes in those sections dealing with elevator inspections and the issuance of a certificate of operation in local elevator programs.

--made changes to rule language (in Section 1000.30 and Section 1000.90(c)) to clarify and reflect the current practice regarding a Contractor License Designee and an Inspection Company License Designee, also adding a definition of "Contractor Licensee Designee" in Section 1000.30.

--made changes to rule language (in Section 1000.30 and Section 1000.80(a) and 1000.80(c)) to clarify and reflect the current practice regarding a Limited Elevator Mechanic License and a Temporary Limited Elevator Mechanic License, including changes to the definitions for "Temporary Elevator Mechanic License" and "Temporary Limited Authority".

--reinstated the definition of "Material Alteration" in Section 1000.30 and clarified that the definition excludes routine items under ASME A17.3.

--in Section 1000.40(d), changed the requirement for a local elevator program to keep records from one to two years to match the 2-year time frame provided in Section 90(a) of the Elevator Safety and Regulation Act.

--in Section 1000.40(e)(2) changed "OSFM shall monitor the local programs" to "OSFM

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may monitor the local programs" to make that provision consistent with other provisions elsewhere in the elevator rules.

--in Section 1000.60(d)(1), replaced "by January 15, 2015" with "by January 1, 2015" regarding the deadline for upgrading of existing conveyances to meet ASME A17.1 and the 2005 Edition of ASME A17.3 where required by those ASME codes.

--in Section 1000.100(g), changed the license fee for an emergency elevator mechanic license from "\$100" to "\$0".

--in Section 1000.130(b), eliminated language authorizing the OSFM to charge a document review fee for OSFM's review of conveyance construction or alteration plans submitted to a Local Administrator for a permit to be issued by that Local Administrator.

--in Section 1000.150(b), changed the fee for a temporary certificate of operation from "\$200" to "\$0".

--in order to conform the rule text to the Elevator Safety and Regulation Act, in Section 1000.170(e)(1), changed "may be subject to a fine" to "shall be subject to a fine".

--in response to public comment that all entities regulated under the Elevator Safety and Regulation Act should be treated the same, added a new Section 1000.190 that requires licensed conveyance contractors to keep records for 10 years (so that property owners, licensed conveyance inspection companies, and licensed conveyance contractors must all keep records for 10 years).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this part? No
- 15) Summary and purpose of amendments: This proposed rulemaking amends the elevator rules to reflect the statutory amendments to the Elevator Safety and Regulation Act in Public Act 96-54.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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James Aubin
Director of Elevator Safety
Office of the State Fire Marshal
100 W. Randolph St., Ste. 4-600
Chicago, IL 60601

Tel: 312/814-2698

Fax: 312/814-3459

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

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TITLE 41: FIRE PROTECTION
CHAPTER II: ELEVATOR SAFETY REVIEW BOARDPART 1000
ILLINOIS ELEVATOR SAFETY RULES

Section

1000.10	Purpose of this Part
1000.20	Applicability
1000.30	Definitions
1000.40	Local Regulation
1000.50	Elevator Safety Review Board
1000.60	Adoption of Nationally Recognized Safety Codes
1000.70	Variance and <u>Appeal/Reconsideration</u>
<u>1000.75</u>	<u>New Technology</u>
1000.80	Licensure and Registration Requirements
1000.90	Application for License or Registration
1000.100	License and Registration Fees
1000.110	Renewal of License
1000.120	Registration of Conveyances
1000.130	Permits
1000.140	Conveyance Inspection
<u>1000.145</u>	<u>Request for Investigation</u>
1000.150	Certificate of Operation
1000.160	Administrative Hearing
1000.170	Administrative Procedures
1000.180	<u>Service or Inspection of Non-Compliant Conveyances</u> Implementation Schedule
1000.190	<u>Conveyance Maintenance, Repair, and Upgrade History</u>

AUTHORITY: Implementing and authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].

SOURCE: Adopted by emergency rule at 30 Ill. Reg. 13186, effective July 21, 2006, for a maximum of 150 days; emergency expired December 17, 2006; adopted at 31 Ill. Reg. 7043, effective April 24, 2007; amended at 32 Ill. Reg. 8377, effective May 27, 2008; amended at 33 Ill. Reg. 5750, effective April 2, 2009; amended at 36 Ill. Reg. 13131, effective October 1, 2012.

Section 1000.20 Applicability

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- a) This Part applies to ~~This Part applies to~~ the construction, operation, inspection, testing, maintenance, alteration and repair of the following equipment, its associated parts, and its hoistways (except as exempted in subsection (c) of this Section):
- 1) *Hoisting and lowering mechanisms equipped with a car or platform; ~~that~~which move between 2 or more landings, including and include, but is not limited to, elevators, platform lifts and stairway chairlifts;*
 - 2) *Power driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, escalators and moving walkways;*
 - 3) *Hoisting and lowering mechanisms equipped with a car; ~~that~~which serve 2 or more landings and that are restricted to the carrying of material by their limited size or limited access to the car, including and include, but ~~are~~ not limited to, dumbwaiters, ~~or~~ material lifts and dumbwaiters with automatic transfer devices;*
 - 4) *Automatic guided transit vehicles on guide ways with an exclusive right-of-way. This equipment includes, but is not limited to, automated people movers. [225 ILCS 312/10(a) and (b)]*
- b) This Part *does not apply to a municipality with a population over 500,000* [225 ILCS 312/10(d)].
- c) This Part does not apply to the following equipment: personnel hoists and employee elevators for construction and demolition operations within the scope of ANSI A10.4; material hoists within the scope of ANSI A10.5; manlifts within the scope of ASME A90.1; mobile scaffolds, towers, and platforms within the scope of ANSI A92; powered platforms and equipment for exterior and interior maintenance within the scope of ANSI A120.1; conveyors and related equipment within the scope of ASME B20.1; cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30; industrial trucks within the scope of ASME B56; portable equipment, except for portable escalators that are covered by ANSI A17.1; tiering or piling machines used to move materials to and from storage located and operating entirely within one story; equipment for feeding or positioning materials at machine tools, printing presses, etc.; skip or furnace hoists; wharf ramps; railroad car lifts or dumpers; line jacks, false cars, shafters,

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moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this State; conveyances located in a private residence not accessible to the public. [225 ILCS 312/10(c)]

- d) *Further, the Act does not apply to special purpose personnel elevators within the scope of ASME A17.1 and used only by authorized personnel [225 ILCS 312/10(c)].*

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.30 Definitions

For the purposes of this Part, the definitions of terms in Section 15 of the Act and in this Section shall apply.

"Acceptance Inspection" means an inspection performed at the completion of the initial installation or alteration of equipment in accordance with applicable standards.

"Act" means the Elevator Safety and Regulation Act [225 ILCS 312].

"Alteration" means any change to equipment, including its parts, components or subsystems, other than maintenance, repair or replacement of the equipment or its parts, components or subsystems. [225 ILCS 312/15] For the purpose of this Part and the Act, this definition will take precedence over similar definitions used in safety codes incorporated by reference in Section 1000.60.

"Authority Having Jurisdiction", as used in ASME A17.1-2010/CSA B44-10, and Performance-Based Safety Code for Elevators and Escalators (ASME A17.7-2007/CSA B44.7-07), means the Board.

"Board" means the Elevator Safety Review Board created by Section 25 of the Act [225 ILCS 312/15].

"Certificate of Conformance" means a certificate issued by a nationally accredited independent conveyance certification organization designated by ANSI, ASME or SCC (Standards Council of Canada) to operate a certification program that conforms to the Performance-Based Safety Code for Elevators and Escalators (ASME A17.7/CSA B44.7) and that evaluates new technology applicable to a

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conveyance for conformance with ASME A17.7/CSA B44.7. The Certificate of Conformance provides proof that the conveyance complies with ASME A17.7/CSA B44.7 and any other applicable codes required under the Act. The Certificate shall be part of the basis for approval by the Board.

"Certificate of Operation" means a certificate issued by the OSFM or the Local Administrator that indicates that the conveyance has passed the required safety inspection and tests and fees have been paid. [225 ILCS 312/15]

"Code" or "State Code" means the standards and recommendations incorporated by reference in Section 1000.60.

"Contractor License Designee" means an individual designated by a licensed elevator contractor or licensed limited elevator contractor who holds a current Illinois mechanic's license or limited mechanic's license is the holder of the elevator contractor license or limited elevator contractor license and has the responsibility to ensure that work performed by the contractor is done so in conformance with the Act. ~~Such person shall have ownership interest, corporate officer status or managerial control over the licensed workforce of the contractor.~~

"Elevator Contractor" means any person, firm, or corporation who possesses an elevator contractor license in accordance with the provisions of Sections 40 and 55 of the Act and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining and is entitled to perform electrical work on elevators or related conveyances covered by the Act within any building or structure, except exempt private residences. [225 ILCS 312/15]

"Elevator Helper" means an individual registered with OSFM who works under the general direction of a licensed elevator mechanic or licensed limited elevator mechanic. Licensure is not required for an elevator helper. [225 ILCS 312/15]

"Elevator Industry Apprentice" means an individual who is enrolled in an apprenticeship program approved by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and who is registered by OSFM and works under the general direction of a licensed elevator mechanic or licensed limited elevator mechanic. Licensure is not required for an elevator industry apprentice. [225 ILCS 312/15]

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"Elevator Inspector" means any inspector, as that term is defined in ASME QEI, who possesses an elevator inspector license in accordance with the provisions of the Act. [225 ILCS 312/15]

"Elevator Mechanic" means any person who possesses an elevator mechanic license in accordance with the provisions of Section 45 of the Act and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or related conveyances covered by the Act. [225 ILCS 312/15]

"Emergency Elevator Mechanic License" means a license issued by OSFM, under Section 45(d) of the Act and Section 1000.80(d) of this Part and based upon the certification of a licensed elevator contractor or licensed limited elevator contractor, whenever OSFM determines that an emergency exists in the State due to disaster or work stoppage and the number of persons in the State holding mechanic licenses is insufficient to cope with the emergency. [225 ILCS 312/45(d)]

"Hearing Officer" means the presiding officer or officers at the initial hearing before the Board and each continuation of that hearing. A hearing officer must be an attorney-at-law licensed to practice in Illinois.

"Inspection Company License" means ~~qualified as~~ a license issued by the Elevator Safety Review Board to any company that is qualified as an ASME QEI inspection company that has proven the company's qualifications and ability and that has been authorized by the Elevator Safety Review Board to possess this type of license under the provisions of Section 1000.80(h).

"Inspection Company License Designee" means an individual designated by a licensed elevator inspection company who holds an Illinois elevator inspector license.

"Limited Elevator Contractor License" means a license issued by OSFM, under Section 1000.80(g), that limits the licensee's business to a specific type of conveyance described in ASME A18.1~~platform lifts and stairway chairlifts. (See definition of Elevator Contractor's License at 225 ILCS 312/15.)~~

"Limited Elevator Mechanic License" means a license issued by OSFM, under Section 1000.80(a), that *authorizes the licensee to carry on a business of erecting, constructing, installing, altering, servicing, repairing or maintaining* a specific

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type of conveyance described in ASME A18.1-~~platform lifts and stairway chairlifts~~ within any building or structure. [225 ILCS 312/15]

"Local Administrator" means the municipality or county that entered into a local elevator agreement with OSFM to operate its own elevator safety program in accordance with the Act and this Part.

"Material Alteration" means any change to equipment, including its parts, components, and/or subsystems, other than maintenance, repair, or replacement of routine items under ASME A17.3. For the purpose of this Part and the Act, this definition will take precedence over similar definitions used in safety codes incorporated by reference in Section 1000.60.

"New Technology" means an elevator system, component or subsystem that has not been addressed in the Safety Code for Elevators and Escalators (ASME A17.1-2010/CSA B44-10), but meets the requirements of a certificate of conformance under the Performance-Based Safety Code for Elevators and Escalators (ASME A17.7-2007/CSA B44.7-07).

"OSFM" means the Office of the State Fire Marshal, which is designated by the Act to be the administrator of the Illinois Elevator Safety and Regulation Program.

"Owner" means the owner of the conveyance, which could be an individual, a group of individuals or an association, trust, partnership, corporation or person doing business under an assumed name. The owner may delegate his, her or its authority to manage the day-to-day operations of the conveyance to another party, but may not delegate his, her or its responsibilities and duties under the Act and this Part. [225 ILCS 312/15]any person or authorized agent of that person who owns a device or equipment subject to regulation under the Act, or, in the event the device or equipment is leased, the lessee.

"Private Residence" means a separate dwelling or a separate apartment or condominium unit in a multiple-family dwelling that is occupied by members of a single-family unit. [225 ILCS 312/15]-and Private residence excludes a unit used on a time-share basis by more than one family over a period of time. [225 ILCS 312/15]

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"Repair" means reconditioning or renewal of parts, components, and/or subsystems necessary to keep equipment in compliance with applicable code requirements. Repair includes only such work as is necessary to maintain present equipment in a safe and serviceable condition and to adjust or replace defective, broken, or worn parts with parts made of equivalent material, strength, and design, ~~if and where~~ the replacing part performs the same function as the replaced part. Section 15 of the Act exempts repairs from the Act's permit requirements. For the purpose of this Part and the Act, this definition will take precedence over similar definitions used in safety codes incorporated by reference in Section 1000.60.

"Temporary Certificate of Operation" means a certificate issued by ~~the OSFM~~ or the Local Administrator that permits the temporary use of a non-compliant conveyance by the general public for a limited time of 30 days while minor repairs are being completed, or for construction or demolition to provide transportation for construction personnel, tools, and materials only. [225 ILCS 312/15]

"Temporary Elevator Mechanic License" means a temporary license issued by OSFM, under Section 45(e) of the Act and Section 1000.80(c) of this Part, when OSFM agrees that there are no licensed personnel available to perform elevator work, and upon the request and certification of a licensed elevator contractor or licensed limited elevator contractor, ~~when there are no licensed personnel available to perform elevator work~~ [225 ILCS 312/45(e)]-

"Temporary Limited Authority" means a temporary license to perform work on a specific type of conveyance described in ASME A18.1 issued, under Section 45(g) of the Act and Section 1000.80(a)(3) of this Part. A temporary license will be issued when OSFM agrees that there are no licensed personnel available to perform elevator work. The license will be issued by OSFM to an individual that OSFM agrees is qualified to perform the work.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.40 Local Regulation

- a) Authorization of Local Programs
Provided that the local program safety standards, codes and regulations are at least as stringent as those adopted in this Part, a~~A~~ municipality or county may

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~~issue permits and may enter into an agreementa contract with the OSFM under which the municipality or county will operate a local program. The agreement will include the terms described in this Section, provided that the local program safety standards, codes and regulations are at least as stringent as those adopted in this Part, to:~~

- 1) Under the local program, the municipality or county shall:
 - A1) Issue construction and alteration permits and certificates of operation;
 - B2) Provide for inspection of elevators, including temporary operation inspections; ~~and~~
 - C) Grant exceptions and variances from the literal requirements of applicable State codes, standards and regulations in cases in which such variances would not jeopardize the public safety and welfare;
 - D3) Enforce the applicable provisions of the Act, and levy fines in accordance with the Municipal Code [65 ILCS 5] or Counties Code [55 ILCS 5]. [225 ILCS 312/140(a)];
 - E) Maintain for inspection by OSFM copies of all applications for permits and permits issued, grants and denials of exceptions or variances, copies of each inspection report issued, and proper records showing the number of certificates of operation issued by that jurisdiction. These materials shall be maintained for a 2-year period from the date of permit issuance for permit records and from the date of inspection for inspection records;
 - F) Ensure that each required inspection will be conducted by a licensed elevator inspector;
 - G) Notify OSFM immediately by mail of any exception or variance granted. OSFM may object to the exception or variance within 7 business days after receipt of the notice. Should OSFM and the Local Administrator not reach agreement on the exception or

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variance, the matter shall be directed to the Board to hear and decide. [225 ILCS 312/140(d)];

H) Notify OSFM at least 90 days prior to termination of the local program (see subsection (e)(1)) in the event the Local Administrator elects to discontinue regulating conveyances; and

I) Comply with any other provisions deemed necessary by the Administrator. (See 225 ILCS 312/140(a).)

2) The Local Administrator may assess a reasonable fee for permits, exceptions, variances, certificates of operation or inspections performed by its inspectors.

3) The Local Administrator may choose to require that inspections be performed by its own Illinois licensed inspectors or by private Illinois licensed elevator inspectors.

4) Any safety standards or regulations adopted by a municipality or county pursuant to 225 ILCS 312/140(a) must be at least as stringent as those provided for in the Act and Section 1000.60 of this Part.

b) Approval of the Local Program~~by the Board~~

1) Application

Any municipality or county that chooses to inspect, ~~license~~ or otherwise regulate conveyances must apply to OSFM~~the Board~~ for approval of the local program. The application shall include the name of the local program administrator, the standards and regulations adopted, the number and types of conveyances covered by the program, the name and license number of inspectors, and other reasonable information OSFM~~the Board~~ may request. The form shall be provided by ~~the~~ OSFM.

2) Approval and Program Agreement

If ~~the~~ OSFM determines that the local program will be at least as stringent as the requirements of the Act and this Part, ~~the~~ OSFM will so notify the local program. Each municipality or county approved by OSFM~~the Board~~ to implement a local program shall enter into a written agreement with

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OSFM under which the local program will apply within the described territory.

3) Existing Local Programs

~~No municipality or county may operate a local program unless it has entered into an agreement with OSFM. Initial applications for approval of local programs existing when this Part is adopted must be submitted to the Board. Municipalities or counties having conveyance safety inspection programs existing on the effective date of this Part that are in substantial conformance with this Part may continue to operate those programs pending approval by the Board. The OSFM shall be responsible for oversight and concurrent enforcement during the period between application and approval of local programs.~~

4) ~~Annual Review by OSFM~~

~~OSFM may review and audit the program of any Local Administrator and inspect the permits issued, grants and denials of exceptions or variances, inspection reports, and records related to the conveyances under the local program. OSFM will provide the Local Administrator reasonable advance notice of the review, audit and/or inspection. Board approval of local programs is renewable annually.~~

e) ~~Local Ordinances, Resolutions and Regulations~~

~~The municipality or county must enact enabling ordinances or resolutions creating the local program and adopt standards and regulations at least as stringent as those provided in this Part. Variances to standards and regulations adopted by a local program shall not become final until ratified by the Board.~~

c)d) Local Enforcement

Within the jurisdiction of an approved local program, except as otherwise provided in this subsection (c)d), the procedural requirements of the local program shall be followed, rather than the procedural requirements of this Part, including the specified fees. However, all conveyances located within the jurisdiction of a local program shall be registered with ~~the~~ OSFM in accordance with Section 80 of the Act and Section 1000.120 of this Part.

d)e) Reporting and Recordkeeping

1) ~~Annual Report~~

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~~The municipality or county shall submit an annual report to the OSFM documenting the standards and regulations enforced by the municipality or county and the number of inspections performed and permits issued.~~

12) ~~Other~~ Reporting

~~The OSFM may request certain~~ require additional reports and information to be provided on a periodic basis to assure that local programs are operating in conformance with the Act.

23) Recordkeeping

A municipality or county that operates a local program shall maintain for inspection for a 2-year period the records required in subsection (a)(1)(E) by the OSFM ~~copies of all inspection reports, permit applications and permits issued, and shall maintain a record of the number of certificates of operation issued by that jurisdiction. These records must be maintained for at least one year. A copy of permits issued shall also be forwarded to the OSFM.~~

e)† Discontinuance of a Local Program

1) Discontinuance by the Local Jurisdiction

Should a local program determine to discontinue inspecting, ~~licensing,~~ or otherwise regulating conveyances, the local program administrator shall notify ~~the~~ OSFM 90 days prior to termination of the program. The municipality or county shall make available to ~~the~~ OSFM program records and documents necessary for ~~the~~ OSFM to maintain regulatory continuity.

2) Discontinuance by OSFM~~the Board~~

~~The OSFM may~~ shall monitor the local programs and, if ~~and~~ report to the Board whenever a program is found to not meet the requirements of the Act and this Part. ~~The Board shall review the report and~~ notify the Local Administrator ~~municipality or county~~ of corrective actions needed to be taken to bring its program into compliance. OSFM~~The Board~~ may, after allowing time for corrective action and after a hearing under 41 Ill. Adm. Code 210 and Section 1000.160 of this Part, withdraw approval of a non-compliant local program.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

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Section 1000.50 Elevator Safety Review Board

- a) **Appointment**
The Elevator Safety Review Board consists of ~~1714~~ members, ~~1411~~ of whom are appointed by the Governor and 3 of whom are appointed by the State Fire Marshal under Section 25 of the Act. See Section 25 of the Act for specific representation and terms of office.
- b) **Quorum**
Nine Board members shall constitute a quorum. A quorum is required for all Board decisions.~~A quorum shall be determined as a majority of the Board members actually appointed by the Governor or the OSFM. Unfilled positions shall not be counted when determining a quorum.~~
- c) **Powers and Duties of the Board**
Section 35 of the Act authorizes the Board to adopt rules for administration and enforcement of the Act. The rules shall establish standards and criteria consistent with the Act for licensing of elevator mechanics, limited elevator mechanics, inspectors and contractors. The Board may grant variances from the applicable standards (see Section 1000.70), establish fees and recommend changes to the Act.
- 1) The Board shall adopt, or amend and adopt, the latest editions of the standards referenced in Section 35 of the Act within 12 months after the effective date of the standards.
 - 2) The Board shall make determinations authorized by the Act regarding implementation and regulation of new technology. Board determinations shall have a binding precedential effect throughout the State regarding equipment, structure or the enforcement of codes unless limited by the Board to the fact-specific issues.
 - 3) The Board shall have the authority to hear appeals of any denial by the Local Administrator or of any denial or objection by OSFM.
 - 4) The Board shall hold hearings and decide appeals within 30 days from the date of the hearing.

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5) *The Board shall establish fee schedules for licenses and registrations issued by OFSM. The Board shall also establish fee schedules for permits and certificates for conveyances not under a Local Administrator. The fees shall be set at an amount necessary to cover the actual costs and expenses to operate the Board and to conduct its duties as described in the Act. [225 ILCS 312/35]*

- d) Contact
The Board's office is located at the Office of the Illinois State Fire Marshal, Elevator Safety Division, James R. Thompson Center, 100 West Randolph Street, Suite 4-600, Chicago, Illinois 60601. ~~1035 Stevenson Drive, Springfield, Illinois 62703-4259.~~

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.60 Adoption of Nationally Recognized Safety Codes

- a) All conveyances shall be designed, constructed, installed, operated, inspected, tested, maintained, altered, and repaired in accordance with the following standards and safety codes recommended practices:
- 1) American Society of Mechanical Engineers (ASME)
Three Park Avenue
New York NY 10016-5990
 - A) Safety Code for Elevators and Escalators (ASME A17.1-~~2010~~~~2007~~/CSA B44-~~1007~~) and Performance-Based Safety Code for Elevators and Escalators (ASME ~~A17.1~~~~17.1~~-2007/CSA B44.7-07);
 - ~~B) Guide for Inspection of Elevators, Escalators, and Moving Walks (ASME A17.2-2004);~~
 - BC) Safety Code for Existing Elevators and Escalators (ASME A17.3-2005), but only as required under Section 35(h) and (i) of the Act and subsection (d) of this Section~~(upgrades required by application of the Safety Code for Existing Elevators and Escalators must be completed no later than January 1, 2013);~~

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~~CD~~) Safety Standard for Platform Lifts and Stairway Chairlifts (ASME A18.1-~~2008~~2005);

~~DE~~) Standard for the Qualification of Elevator Inspectors (ASME QEI-1-~~2010~~2004).

~~2)~~ ~~American National Standards Institute (ANSI)
25 West 43rd Street, 4th Floor
New York NY 10036~~

~~Safety Requirements for Personnel Hoists and Employee Elevators (ANSI A10.4-2004).~~

~~23)~~ American Society of Civil Engineers (ASCE)
1801 Alexander Bell Drive
Reston VA 20191-4400

~~Automated People Mover Standards (ASCE 21, Part 1-2005/2006, ASCE 21, Parts 2 through 4-2008~~2000~~).~~

b) All the materials incorporated by reference in this Section are incorporated as of the date specified and include no later editions or amendments.

c) *The Board shall adopt, or amend and adopt, the latest editions of the standards referenced in this ~~Section~~ subsection within 126 months after the effective date of the standards. [225 ILCS 312/35(a)]*

d) Upgrade Requirements for Existing Conveyances

1) *Notwithstanding anything else in this Part, the following upgrade requirements of the 2007 edition of the Safety Code for Elevators and Escalators (ASME A17.1) and the 2005 edition of the Safety Code for Existing Elevators (ASME A17.3) must be completed by January 1, 2015, but OSFM or the Local Administrator may not require their completion prior to January 1, 2013:*

A) *Restricted opening of hoistway doors or car doors on passenger elevators in accordance with ASME A17.3-2005;*

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- B) Car illumination in accordance with ASME A17.3-2005;
 - C) Emergency operation and signaling devices in accordance with ASME A17.3-2005;
 - D) Phase reversal and failure protection in accordance with ASME A17.3-2005;
 - E) Reopening device for power operated doors or gates in accordance with ASME A17.3-2005;
 - F) Stop switch pits in accordance with ASME A17.3-2005; and
 - G) Pit ladder installation in accordance with Section 2.2.4.2 of ASME A17.1-2007.
- 2) In the event that a conveyance regulated by this Part is altered, the alteration shall comply with ASME A17.1-2010/CSA B44-10.
- 3) Notwithstanding anything else in this Section, the firefighter's emergency operation and the hydraulic elevator cylinder, including the associated safety devices outlined in Section 4.3.3(b) of ASME A17.3-2005, are not required to be upgraded unless:
- A) There is an alteration;
 - B) The equipment fails; or
 - C) Failing to replace the equipment jeopardizes the public safety and welfare as determined by the Local Administrator or the Board.
[225 ILCS 312/35(h) and (i)]
- e) Non-Mandatory Guidelines. It is recommended that all conveyances be inspected and tested in accordance with the following recommended practices. The following list should not be interpreted as excluding other practices recommended by equipment manufacturers.

American Society of Mechanical Engineers (ASME)
Three Park Avenue

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New York NY 10016-5990

Guide for Inspection of Elevators, Escalators, and Moving Walks (ASME A17.2-2010)

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.70 Variance and AppealReconsideration

- a) ~~OSFM~~*The or the Local Administrator shall have the authority to Board may grant exceptions and variances from the literal requirements of the applicable State codes, standards and regulations in cases in which variances would not jeopardize the public safety and welfare. or this Part that are consistent with the intent of the Act. OSFM has the right to review and object to any exceptions or variances granted by the Local Administrator. The Board has the authority to hear appeals of any denial by the Local Administrator or of any denial or objection by OSFM. The Board will hold hearings and will decide the appeal within 30 days after the appeal. [225 ILCS 312/35(b)]*
- b) In order for a variance request submitted to OSFM to be reviewed, the request shall be submitted in writing by the owner or his/her designated representative and shall include:
- 1) Evidence that the proposed or existing conveyance is not in compliance with the code or regulation.
 - 2) Evidence that strict compliance with the code or regulation would entail practical difficulty or unnecessary hardship or is otherwise ~~found~~ unwarranted.
 - 3) Evidence that any requested variance ~~would~~does not jeopardize the safety and health of those who would use the conveyance or work on the conveyance and that the methods, means, or practices proposed provide equal protection of the public's safety and health.
 - 4) A processing fee of ~~\$300~~is to be submitted to OSFM with the variance/exception request~~200~~.

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- 5) All variances shall indicate the specific code standard from which relief is granted.
- c) The ~~Board's~~ determination on the variance request shall be made in writing to the party making the request and shall advise the party of the appeal~~reconsideration~~ process contained in subsection (d). This determination shall be made no later than 30 days after the ~~Board meeting at which the~~ variance request is submitted~~heard~~.
- d) ~~The Board may reconsider a determination made pursuant to this Section.~~ To request an appeal~~reconsideration~~, the owner or his/her designee shall submit a written appeal~~request~~ to the Board including:
- 1) Information in addition to that provided under subsection (b) that may assist the Board in its deliberation~~reconsideration~~.
 - 2) Evidence that this Part or a code or regulation has been incorrectly interpreted, the provisions of the code or regulation do not fully apply, or the decision is unreasonable or arbitrary as it applies to alternatives or new materials.
- e) The request for appeal~~reconsideration~~ shall be submitted no later than 30 days after receiving the variance determination from OSFM or the Local Administrator. ~~The filing of an appeal A request for variance or reconsideration~~ shall not relieve a person from complying with the Act or this Part during the pending review.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.75 New Technology

- a) Any new technology that is issued a Certificate of Conformance under the Performance-Based Safety Code for Elevators and Escalators (ASME A17.7-2007/CSA (Canadian Standards Association) B44.7-07) must be presented to the Board.
- b) The manufacturer of any new technology requiring approval must submit to the Board as least 90 days in advance of a scheduled Board meeting the Certificate of Conformance and any required accompanying report issued by the Accredited

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Elevator/Escalator Certifying Organization (AECO), any installation, testing and operational instructions, maintenance and inspection instructions and any special equipment that is necessary to inspect or maintain the new technology.

- c) The Board shall notify the manufacturer submitting the application and all Local Administrators on record of the new technology hearing at least 30 days in advance of the date scheduled for the Board to review the submitted documents and hear testimony. The Local Administrator may submit documentation supporting or opposing the new technology and may testify at the hearing.
- d) The Board will approve the use of the new technology if it meets the requirements of this Part.

(Source: Added at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.80 Licensure and Registration Requirements

- a) Qualifications for Elevator Mechanic License, ~~or~~ Limited Elevator Mechanic License or Temporary Limited Elevator Mechanic License
- 1) Elevator Mechanic License
Section 20(a) of the Act states that *no person shall erect, construct, wire, alter, replace, maintain, remove, or dismantle any conveyance contained within buildings or structures in the jurisdiction of this State unless he or she possesses an elevator mechanic license.*
- A) *No license shall be granted to any person who has not paid the application fee required by Section 1000.100(a).*
- B) **Grandfathering**
~~A person applying for an elevator mechanic or limited elevator mechanic license by December 31, 2007 and submitting to the OSFM acceptable proof that he or she has worked as an elevator constructor or maintenance or repair person for equipment the licensee is authorized to install shall be issued an elevator mechanic license. Acceptable proof shall consist of documentation that he or she worked without direct and immediate supervision for an elevator contractor who has worked on elevators in this State~~

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~~for a period of not less than 3 years immediately prior to April 24, 2007.~~

BC) *No license shall be granted to any person who has not proven his or her qualifications and abilities. Applicants for an elevator mechanic license must demonstrate one of the following qualifications:*

i) *an acceptable combination of documented experience and education credits consisting of:*

- *not less than 3 years work experience in the elevator industry, in construction, maintenance, or service and repair, as verified by current and previous employers licensed to do business in this State or in another state if the Board deems that out-of-state experience equivalent; and*
- *satisfactory completion of a written examination administered by the Elevator Safety Review Board or its designated provider, testing understanding ~~of~~ this Part and the State codes incorporated in Section 1000.60; or*

ii) *a certificate of successful completion of the mechanic examination of a nationally recognized training program for the elevator industry, such as the National Elevator Industry Educational Program or its equivalent; or*

iii) *a certificate of completion of an elevator mechanic apprenticeship program, with standards substantially equal to those of the Act, registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor; or*

iv) *a valid license from a state having standards substantially equal to those of this State. [225 ILCS 312/45]*

2) ~~Qualifications for a~~ Limited Elevator Mechanic License

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- A) No license shall be granted to any person or firm that has not paid the application fee required by Section 1000.100(~~h~~)(~~g~~).
- B) Qualifications for a limited elevator mechanic license shall be the same ~~as~~ for an elevator mechanic license, with the exception that qualifying work experience shall consist of work performed on specific ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act, and this Part.

- 3) Temporary Limited Elevator Mechanic License
OSFM may issue a temporary limited elevator mechanic license to an individual to perform work on a specific type of conveyance described in ASME A18.1 The license shall be issued for 30 days upon application attesting that there are no licensed personnel available to perform elevator work for the specific type of conveyance. The application shall also contain the certification of a licensed limited elevator contractor or licensed elevator contractor certifying that the individual is qualified to perform the work. Proof of competency cited in the certification must include at least 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State. The license shall be valid only while the person is employed by the licensed limited elevator contractor or licensed elevator contractor that certified the individual as qualified. The applicant shall furnish any proof of competency that OSFM may require and must obtain a permanent license within one year. [225 ILCS 312/45(g)]

b) Elevator Industry Apprentice or Helper Registration

- 1) A person who is not licensed as an elevator mechanic or limited elevator mechanic may work as an elevator industry apprentice or helper ~~if~~ he or she is registered as an apprentice or helper ~~such~~ by OSFM and works under the general supervision of a licensed elevator mechanic or licensed limited elevator mechanic.
- 2) No person shall be registered as an elevator industry apprentice or helper who has not paid the registration fee required by Section 1000.100(~~k~~)(~~j~~).

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- 3) All elevator mechanic apprentices shall be registered with an apprenticeship or training program approved by the Bureau of Apprenticeship and Training, U.S. Department of Labor.
 - 4) Elevator industry apprentices and helpers shall register with OSFM by submitting, on a form provided by ~~the~~ OSFM, the following information:
 - A) Name, address and telephone number of the applicant.
 - B) Whether the applicant is registering as an apprentice or as a helper.
 - C) If an apprentice, the name and contact information for the apprenticeship or training program with which the apprentice is registered.
 - 5) Upon determination that the applicant for registration meets all the requirements of the Act and this Part, OSFM will provide the applicant with an elevator industry apprentice or helper registration card.
- c) Qualifications for a Temporary Elevator Mechanic License
- 1) No license shall be granted to any person who has not paid the application fee required by Section 1000.100(~~f~~)(e).
 - 2) *A licensed elevator contractor ~~or licensed limited elevator contractor~~ shall notify OSFM when there are no licensed personnel available to perform elevator work and may request that the OSFM issue temporary elevator mechanic licenses to persons certified by the contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision.*
 - 3) A person for whom a contractor requests a temporary elevator mechanic license shall show proof of competency by documenting 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.
 - 4) *A temporary elevator mechanic license shall recite that it is valid for a period of 30 days from the date of issuance and only while the elevator*

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mechanic is *employed by the licensed elevator contractor* ~~or licensed limited elevator contractor~~ *that certified the individual as qualified. It shall be renewable as long as the shortage of license holders continues.* [225 ILCS 312/45(e)]

5) *A temporary elevator mechanic license shall be renewable as long as the shortage of license holders continues. [225 ILCS 312/45(e)]*

d) Qualifications for Emergency Elevator Mechanic License

- 1) No application fee is required for an individual applying for an emergency elevator mechanic license or for the renewal of that license.
- 2) *Whenever an emergency exists in the State due to disaster, act of God, or work stoppage and the number of persons in the State holding elevator mechanic licenses is insufficient to cope with the emergency, any person certified by a licensed elevator contractor or licensed limited elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from ~~the~~ OSFM within 5 business days after commencing work requiring a license.*
- 3) *The applicant shall furnish proof of competency by submitting to ~~the~~ OSFM documentation of 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.*
- 4) *An emergency mechanic license is valid for 30 days from the date issued and for such particular elevators or geographical areas as ~~the~~ OSFM may designate. The emergency license entitles the licensee to the rights and privileges of an elevator mechanic license issued under subsection (a).*
- 5) *OSFM shall renew an emergency elevator mechanic license during the existence of an emergency. [225 ILCS 312/45(d)]*

e) Qualifications for Elevator Inspector License

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- 1) *No person shall inspect any conveyance within buildings or structures, including, but not limited to, private residences, unless he or she has an inspector license [225 ILCS 312/20(b)].*
 - 2) *No elevator inspector license shall be granted to any person who has not paid the application fee required by Section 1000.100(b).*
 - 3) *No inspector's license shall be granted to any person, unless he or she proves to the satisfaction of ~~the~~ OSFM that he or she meets the current ASME QEI-1, ~~Standard Standards~~ for the Qualifications of Elevator Inspectors. [225 ILCS 312/50]*
 - 4) *To be licensed as an elevator inspector, the applicant must have attained QEI certification (see Section 1000.60(a)(1)(~~D~~)(~~E~~)). An elevator inspector shall notify ~~the~~ OSFM within 24 hours after suspension, termination or expiration of his/her QEI certification. No inspector shall perform any inspection covered by the Act without a current QEI certification ~~and valid elevator inspector license.~~*
 - 5) *All elevator inspector license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to ~~the~~ OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.*
- f) **Qualifications for Elevator Contractor License**
Section 40(a) of the Act requires that any person *wishing to engage in the business of installing, altering, repairing, servicing, replacing, or maintaining elevators, dumbwaiters, escalators, or moving walks within this State* must be licensed.
- 1) *No license shall be granted to any person or firm unless the application fee required by Section 1000.100(~~d~~)(~~e~~) is paid.*
 - 2) *No license shall be granted to any person or firm who has not proven the required qualifications and abilities. An applicant must be individually licensed as an elevator mechanic under the Act, perform the work set forth in ~~subsection (a) of~~ Section 20(~~a~~) of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act or, in*

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the case of a firm, employ a person who is individually licensed as an elevator mechanic under the Act, perform the work set forth in ~~subsection (a)~~ of Section 20(a) of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act. [225 ILCS 312/55]

- 3) All licensed elevator ~~contractor~~~~contractor license applicants are required to submit proof of insurance as required by Section 100 of the Act and~~ must provide notice to OSFM at least 10 days in advance ~~to the OSFM~~ of any substantial alteration or cancellation of ~~an insurance~~ policy required by Section 100 of the Act. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
- 4) *If the State of Illinois, a unit of local government, or an institution of higher education maintains in its employ licensed or limited licensed elevator mechanics who maintain only conveyances owned or leased by that entity, the employing entity is not required to be licensed as a contractor under this Section and none of the provisions of the Act concerning licensed contractors shall apply to these entities. [225 ILCS 40(a)]*

g) Qualifications for a Limited Contractor License

- 1) No license shall be granted to any person or firm unless the application fee required by Section 1000.100(e)~~(d)~~ is paid.
- 2) Qualifications for a limited contractor license shall be the same as for an elevator contractor license with the exception that work experience shall consist of work performed on ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act, and this Part.

h) Qualifications for Elevator Inspection Company License

- 1) No company, limited liability company, corporation, not for profit corporation, partnership, limited partnership, sole proprietorship, or any other business organization authorized by law shall inspect or cause an employee to inspect any conveyance within buildings or structures,

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including, but not limited to, private residences, unless the company has an inspection company license.

- 2) *No elevator inspection company license shall be granted to any person who has not paid the application fee required by Section 1000.100(c). [225 ILCS 312/50]*
 - 3) No inspection company license shall be granted to any company unless the company proves to the satisfaction of ~~the~~ OSFM that one or more officers of the company meet the current ASME QEI-1, ~~Standard~~ Standards for the Qualification of Elevator Inspectors. To be licensed as an elevator inspector, the applicant must have attained QEI certification (see Section 1000.60(a)(1)(~~D~~)(E)).
 - 4) An elevator inspection company shall notify ~~the~~ OSFM within 24 hours after suspension, termination or expiration of the officer's QEI certification. No inspection company shall perform any inspection covered by the Act without ~~at least one~~ an officer possessing a current QEI certification and an Illinois inspector license and the company possessing a valid elevator inspection company ~~inspector~~ license.
 - 5) All elevator inspection company license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to ~~the~~ OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
- i) Miscellaneous Requirements
- 1) No licensee shall work on non-registered or non-permitted conveyances covered by the Act, except for those conveyances exempted from registration by the Act or Section 1000.120(~~g~~)(~~e~~)(3) of this Part and ~~except as stated in Section 1000.120(b).~~
 - 2) All license holders are required to report violations of the Act, this Part and the standards listed in Section 1000.60 to ~~the~~ OSFM.

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- 3) Each licensee shall have his/her valid license, and each elevator industry apprentice or helper shall have his/her valid registration card, in his/her possession when working on conveyances covered by the Act.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.90 Application for License or Registration

- a) **Application Forms**
All applications for an elevator mechanic, limited elevator mechanic, temporary elevator mechanic, emergency elevator mechanic, elevator inspector, elevator contractor, ~~or~~ limited elevator contractor, or elevator inspection company license, or for registration as an elevator industry apprentice or helper, shall be submitted to ~~the~~ OSFM on forms provided by ~~the~~ OSFM and shall include a photo of the applicant. All individual license applicants must submit a colored passport photo with their application.
- b) **OSFM Approval or Denial**
Upon receipt, review and approval of the application, ~~the~~ OSFM shall issue the appropriate license or registration. If OSFM determines the applicant does not qualify for licensure or registration based on the criteria established in Section 1000.80, OSFM shall deny the application and notify the applicant of the reason for denial.
- c) **Application for an Elevator Contractor or Limited Elevator Contractor License**
 - 1) *All applications for an elevator contractor or limited elevator contractor license shall include:*
 - A) *if the applicant is a person, the name, residence address, and business address of the applicant;*
 - B) *if the applicant is a partnership, the name, residence address, and business address of each partner;*
 - C) *if the applicant is a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of the corporation;*

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- D) *if the applicant is a corporation other than a domestic corporation, the name and address of an agent locally located who shall be authorized to accept service of process and official notices;*
- E) *the number of years the applicant has engaged in the business of installing, inspecting, maintaining, or servicing elevators or platform lifts or both;*
- F) ~~*if applying for an elevator contractor or limited elevator contractor license,*~~ *the approximate number of persons, if any, to be employed by the applicant and, if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;*
- G) *satisfactory evidence that the applicant is or will be covered by general liability, personal injury, and property damage insurance; and*
- H) *any criminal record of convictions. [225 ILCS 312/40]*
- 2) Contractor License Designee
Each applicant for an elevator contractor license or a limited elevator contractor license must designate one or more individuals as the Contractor License Designee. Contractors shall work for no more than 30 days without notifying OSFM of the new Designee in writing.
- A) ~~Each~~The Designee shall hold ~~an elevator contractor license, a limited elevator contractor license,~~ an elevator mechanic license or a limited elevator mechanic license.
- B) When an exam is required for licensure, the exam will be administered to ~~a~~the Designee.
- C) If ~~a~~the Designee separates employment or his/her designation is terminated, the contractor must notify ~~the~~ OSFM within 5 days. If the separating Designee was the sole Designee for the contractor, the contractor must designate a new Designee and inform ~~the~~ OSFM in writing within 30 days after the new designation or the contractor's license will be automatically suspended. ~~No work on~~

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~~conveyances covered by the Act may be performed by a contractor unless a Contractor License Designee has been appointed and the OSFM has been notified of the appointment.~~

- 3) Inspection Company License Designee
Each applicant for an elevator inspection company license must designate one or more individuals as the Inspection Company License Designee. No inspections of conveyances covered by the Act may be performed by an inspection company unless the Inspection Company License Designee has been appointed and OSFM has been notified of the appointment.
 - A) Each Designee shall hold an Illinois elevator inspector license.
 - B) Both the Designee and all other elevator inspectors must possess and maintain current QEI certifications.
 - C) If a Designee separates employment or his/her designation is terminated, the inspection company must notify OSFM within 5 days. If the separating Designee was the sole Designee for the inspection company, the inspection company must designate a new Designee and inform OSFM in writing within 30 days after the new designation or the inspection company's license will be automatically suspended. Work may not be performed longer than 30 days without notifying OSFM of the new Designee in writing.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.100 License and Registration Fees

License fees shall be as follows:

	a) Elevator Mechanic License (initial and renewal)	\$ 250 <u>200</u>
	b) Elevator Inspector License (initial and renewal)	\$ 450 <u>400</u>
	c) Elevator Inspection Company License (initial and renewal)	\$ 500 <u>400</u>
	d) Elevator Contractor License (initial and renewal)	\$1,000
	e) Limited Elevator Contractor License (initial and renewal)	\$500

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f)	Temporary Elevator Mechanic License (initial and renewal)	\$100 50
g)	Emergency Elevator Mechanic License (initial and renewal)	\$0
h)	Limited Elevator Mechanic License (initial and renewal)	\$150 100
i)	License Restoration	Renewal Fee+\$50
j)	Replacement License	\$50 25
k)	Elevator Industry Apprentice or Helper Registration	\$75 50

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.110 Renewal of License

- a) All licenses shall be renewed every 2 years. ~~An individual~~A licensee may renew a license by submitting a written application for renewal ~~and a colored passport photograph accompanied by the required fee,~~ 4530 days prior to expiration of the license. The licensee will be invoiced for the appropriate license fee.
- b) The individual applicant or the elevator contractor or limited elevator contractor shall provide evidence satisfactory to ~~the~~ OSFM of completion by the individual applicant or the Contractor License Designee of at least 8 hours of continuing education that shall include a minimum of 2 hours on code updates and that shall be attended and completed within one year immediately preceding any license renewal. Continuing education curriculum shall be approved by the Board; and designed to ensure the continued qualifications of the applicant.
- 1) Any training provided by an elevator manufacturer on the equipment sold by that manufacturer may be counted toward the 8 hours of continuing education required for licensed contractors, mechanics, limited contractors and limited mechanics.
 - 2) Training received through a union, college, contractor or third-party program, other than manufacturer provided training, must be approved by the Board in advance of the training. The individual requesting the approval must submit to the Board information on the training that includes, but is not limited to, the course outline, course objectives, hours granted, and instructor's name and qualifications. The Board will not credit training that has not received prior approval.

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- c) *A licensee who is unable to complete the continuing education ~~course~~ required by subsection (b) prior to the expiration of his/her license due to a temporary disability may apply for a waiver from the Board as provided for in Section 60(f) of the Act. [225 ILCS 312/60(f)]*
- d) If a license is allowed to lapse, it may be restored within one year after its expiration date by meeting the ~~requirements~~ requirement of ~~subsections~~ subsection (a)(b) and (b) and the payment of \$50 in addition to the renewal fee. If a license is not restored within one year after its expiration date, the license holder must apply for a new license and shall follow the appropriate licensing procedure.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.120 Registration of Conveyances

- a) Registration of Newly Installed Conveyances
~~Any~~ The licensed elevator contractor or limited elevator contractor installing a new conveyance shall be registered by the owner with OSFM as required by Section 95 of the Act at the time the conveyance is completed and placed in service with the OSFM as required by Section 95 of the Act and The owner shall pay a registration fee of \$30.
- b) Registration of Existing Conveyances
Owners must register their existing conveyances with OSFM and pay a registration fee of \$30. Before July 1, 2008, owners of existing conveyances shall register the conveyance with the OSFM as required by Section 80 of the Act and pay a registration fee of \$30. Inspectors, contractors and mechanics are permitted to service an unregistered existing conveyance one time after July 1, 2007 and provide the owner with notice that the conveyance is required to be registered. The conveyance may not be serviced thereafter until it is properly registered with the OSFM.
- c) The registration shall be on a form provided by ~~the~~ OSFM ~~that~~ and shall ~~require~~ include, but is not limited to, identification of the conveyance type, rated load and speed, manufacturer, location, purpose, and date of installation, along with any other information deemed necessary by OSFM.

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- d) ~~The OSFM shall issue for each conveyance a registration identification plate with the registration number inscribed that shall be used to identify the conveyance thereafter. The registration plate shall be permanently affixed/attached to the elevator conveyance control panel, one of the following:~~
- 1) ~~Machine, pump unit or drive unit;~~
 - 2) ~~Car operating station.~~
- e) Replacement registration identification plates shall require a fee of \$10 for each additional plate.
- f) **Penalties**
- 1) ~~Conveyance Owners Violation of the Act by a conveyance owner shall subject the owner to prosecution for a Class C misdemeanor in accordance with Section 110(b) of the Act. 2) Contractors The OSFM may assess a penalty not to exceed \$500 for each day a contractor fails to register a new conveyance as required by Section 95(a) of the Act.~~
- f3) Registrations are not required for private residence conveyances. Private Residence Owners No fee will be charged for voluntarily registering registration of existing private residence conveyances and no penalties will be incurred by the owner of a private residence. These conveyances are not covered by the Act.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.130 Permits

- a) A licensed elevator contractor or limited licensed elevator contractor shall obtain a permit from ~~the OSFM or the Local Administrator, municipality, or county that regulates such activities~~ prior to erecting, constructing, installing, or materially altering any conveyances covered by the Act. ~~Permits will be required under this Section only for projects that commence after the effective date of this Part.~~
- b) All conveyance construction or alteration documents shall be submitted to OSFM or the Local Administrator for a permit. The document for a new or altered building must first have been reviewed and approved by the local governmental authority as meeting the local building and fire code. In those jurisdictions where the municipality or county has not signed a local elevator agreement with OSFM

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and the municipality or county does not have a means by which it approves building documents or issues building permits, the conveyance construction or alteration documents shall be submitted to OSFM along with the owner-supplied, sealed technical submissions from a licensed architect or engineer. [225 ILCS 312/90(f)]

- ~~cb)~~ If the permit is issued by a local government, the governmental entity issuing the permit shall send a copy to the OSFM. The Local Administrator governmental entity shall be required to maintain the application and permit on file for a period of not less than 2 years~~one year~~ from the date of issuance.
- ~~de)~~ Each application for a permit from ~~the~~ OSFM shall be on a form provided by ~~the~~ OSFM and shall be accompanied by the permit fee established in subsection (~~ig~~) and *accurately scaled and fully dimensioned plans and shall show the location of the machinery room and the equipment to be installed, relocated, or altered, and all structural supporting members thereof, including foundations. The specifications shall include all materials to be employed and all loads to be supported or conveyed. These plans and specifications shall be sufficiently complete to illustrate all details of construction and design. [225 ILCS 312/90(c)]* The application shall specify whether the permit is for a conveyance used for mobility-impaired or non-mobility-impaired purposes. All permit applications shall be signed by the Contractor License Designee.
- ~~ed)~~ At the conclusion of the permitted activity, the licensed elevator contractor or limited elevator contractor shall arrange for a licensed elevator inspector to perform an acceptance inspection.
- ~~fe)~~ The licensed elevator contractor or limited elevator contractor shall notify ~~the~~ OSFM no less than 7 days prior to the acceptance inspection being performed.
- ~~f)~~ ~~The licensed elevator contractor or limited elevator contractor shall specify whether the permit is for a conveyance used for mobility-impaired or nonmobility-impaired purposes.~~
- g) *A permit to alter a conveyance may be issued to an entity exempted from licensure under ~~subsection (a) of Section 40(a) of the Act.~~ [225 ILCS 312/90(a)]*
- h) Revocation and Extension of Permit

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- 1) Permits expire 12 months from the date they are issued.
- 2) The licensed contractor may request that OSFM or the Local Administrator grant an extension of time for the permit. OSFM or the Local Administrator shall grant the extension for an additional 12 months if the request is received by OSFM or the Local Administrator prior to the expiration of the existing permit. Extension requests received by OSFM or the Local Administrator after the expiration of the existing permit shall be denied, requiring a new application that must be accompanied by payment of the current fee.

ih) OSFM permit fees shall be as follows:

- | | | |
|----|-------------------------|---------------------------------|
| 1) | New installation | \$400 200 |
| 2) | Material alteration | \$200 400 |
| 3) | <u>Permit extension</u> | <u>\$100</u> |

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.140 Conveyance Inspection

- a) Acceptance Inspections
All new conveyance installations shall be inspected and, based on that inspection, shall, prior to initial use, receive a Certificate of Operation from ~~the OSFM or the Local Administrator~~. All new conveyance installations shall be performed by a licensed elevator contractor who shall, subsequent to inspection, certify compliance with the applicable Sections of the Act and this Part. [225 ILCS 312/95(a)]
- b) Periodic Inspections and Tests
 - 1) *It shall be the responsibility of the owner of all new and existing conveyances located in any building or structure to have the conveyance inspected annually.* [225 ILCS 312/120(a)] It shall be the responsibility of the owner to insure that the inspections and tests are performed at the prescribed intervals.

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- 2) All inspections and tests shall be conducted in accordance with the State code listed in Section 1000.60 that applies to the conveyance being inspected.
- 3) Upon completion of the~~Subsequent to~~ inspection, the licensed elevator inspector must supply the property owner ~~and the OSFM~~ with a copy of the written inspection report describing any and all violations and the licensed elevator inspector and property owner shall keep records for review by OSFM or the Local Administrator. [225 ILCS 312/120(a)]
- 4) All property owners and licensed elevator inspection companies shall maintain elevator inspection reports and elevator testing results for 10 years.
- 54) *Property owners shall have 30 days from the date of the published inspection report to be in full compliance by correcting any violations.* [225 ILCS 312/120(a)] ~~Upgrades to existing~~Existing conveyances shall comply with the time limits provided in Section 1000.60~~(d)(a)(1)(C)~~. The licensed inspector will review the actions taken by the property owner and, if the corrections are adequate, will issue a follow-up inspection report indicating adequate remediation of the violations.
- 65) ~~The OSFM or the Local Administrator~~ may extend the compliance dates for good cause, provided that the violations are minor and pose no threat to public safety. [225 ILCS 312/120(a)]
- 76) All tests and inspections shall be performed by individuals~~a~~ licensed ~~elevator mechanic or licensed limited elevator mechanic who is licensed to perform that work or inspections~~ on that particular type of conveyance. [225 ILCS 312/120(e)]
- c) ~~Random~~ Inspections by OSFM
~~As authorized by Section 105(a) of the Act, the OSFM may conduct random on-site inspections and tests on existing installations~~ using its own personnel or third party licensed inspectors under contract with OSFM.
- d) Conflict of Interest
- 1) No individual licensed as both an elevator mechanic (regular or limited)

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and elevator inspector may inspect his/her own work, the work of his/her company, or the work of a company affiliated with his/her company.

- 2) The Board may grant exceptions for governmental, academic, and other institutions that maintain their own personnel licensed as elevator inspectors and as elevator mechanics to allow those personnel to inspect conveyances owned or leased by the institutions as long as the personnel~~they~~ are not inspecting their own work.
- 3) ~~In the event that there are insufficient independent licensed inspectors available, the~~The Board may grant exceptions and allow Category 1 Hydraulic Pressure Tests (see ASME A17.1) of elevators to be witnessed by a licensed inspector employed by a licensed contractor, provided that a separate licensed mechanic performs the tests,~~in the event that there are insufficient independent licensed inspectors available.~~

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.145 Request for Investigation

- a) Any person may make a request for an investigation into an alleged violation of the Act by giving notice to OSFM or the Local Administrator of the violation or danger. The notice shall be in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the person making the request. Upon the request of any person signing the notice, the person's name shall not appear on any copy of the notice or any record published, released or made available.
- b) If the request is to the Local Administrator and the Local Administrator determines that there are reasonable grounds to believe that the violation or danger exists, the Local Administrator shall forward the request for an investigation to OSFM.
- c) OSFM, upon receipt of a notification under this Section, shall review the complaint. If OSFM determines that there are reasonable grounds to believe that the violation or danger exists, OSFM shall cause to be conducted or shall permit the Local Administrator to conduct an investigation as soon as practicable to determine if the violation or danger exists. If OSFM determines that there are no

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reasonable grounds to believe that a violation or danger exists, it shall notify the party in writing of that determination. [225 ILCS 312/105(b) and (c)]

(Source: Added at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.150 Certificate of Operation

a) An owner of a conveyance must apply annually for a Certificate of Operation. Each application for a Certificate of Operation concerning a conveyance located in a county or municipality operating under a local elevator agreement shall be submitted by the owner of a conveyance to the Local Administrator. Each application for a Certificate of Operation concerning a conveyance not subject to a Local Agreement shall be submitted by the owner of the conveyance to the OSFM. All applications for a Certificate of Operation ~~and~~ shall include the following:

- 1) An acceptance report or the report from the most recent ~~annual~~periodic inspection from a licensed elevator inspector indicating the date of the inspection and that the conveyance has passed inspection and is safe for normal use;
- 2) A certification from a licensed elevator mechanic or licensed limited elevator mechanic that the conveyance was tested in accordance with the appropriate State code;
- 3) Any other information ~~the OSFM~~ or the Local Administrator may require; and
- 4) The fee required by subsection (b).

b) The fees for Certificate of Operation for conveyances not subject to a local elevator agreement shall be as follows:

- | | |
|--|-----------------------------|
| 1) Initial Certificate of Operation | \$100 |
| 2) Annual Renewal of Certificate of Operation | \$75 |
| 3) Renewal of Expired Certificate of Operation | \$125 <u>100</u> |
| 4) Temporary Certificate of Operation | \$0 <u>200</u> |

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5) Late Fee \$50

- c) Upon receipt and review of ~~an~~the application for a Certificate of Operation and supporting documentation, ~~the OSFM or the Local Administrator~~ shall issue the appropriate Certificate of Operation or shall notify the applicant of the reason for the denial of the certificate.
- d) ~~The OSFM or the Local Administrator~~ may issue a Temporary Certificate of Operation that permits the temporary use of a non-compliant conveyance by the public for up to 30 days while minor repairs are being completed if ~~the OSFM or the Local Administrator~~ determines that use of the conveyance pending repair will not jeopardize the safety and health of those using or working on the conveyance. ~~The OSFM or the Local Administrator~~ also may issue Temporary Certificates of Operation for elevators used for construction or demolition.
- e) ~~The Certificate~~Certificates of Operation or a copy of the certificate shall be clearly displayed on or in each conveyance. ~~or in the machine room for the benefit of the State code enforcement staff.~~ [225 ILCS 312/95(c)]
- f) Upon expiration of the Certificate of Operation, ~~the OSFM or the Local Administrator~~ may direct the building owner to suspend operation of the conveyance.
- g) ~~The OSFM or the Local Administrator~~ may cancel the Certificate of Operation and place the conveyance out of service when any of the following conditions exist:
- 1) The conveyance is deemed unsafe for operation or is being operated in an unsafe manner.
 - 2) The owner fails to pay fees or penalties.
 - 3) The owner fails to have the conveyance inspected at required intervals.
 - 4) The owner fails to take corrective action as directed by ~~the OSFM~~.
- h) When a Certificate of Operation has been suspended or cancelled or the conveyance has been placed out of service by ~~the OSFM or the Local Administrator~~, no person shall operate the conveyance. To re-enable use of the

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~~conveyance, the~~The owner of the conveyance shall remediate the cause of the suspension or cancellation; shall have the conveyance reinspected; and shall apply to have a suspended Certificate of Operation reinstated and, prior to operation, shall wait to have the reinstatement granted or shall apply for and wait to receive a new Certificate of Operation to replace a cancelled certificate.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.170 Administrative Procedures

- a) ~~The~~OSFM may assess a penalty against any person, other than a conveyance owner, who violates the Act or this Part or any of the standards listed in Section 1000.60.
- b) It shall be a violation of this Part for any licensed contractor, mechanic or inspector to:
 - 1) fail to conduct an inspection of any conveyance that determines the condition of all portions of the conveyance required to be inspected by the standards adopted in Section 1000.60;
 - 2) to willfully conceal a deficiency known to the mechanic or inspector;
 - 3) conduct a fraudulent, negligent or incomplete inspection of a conveyance or to allow an employee to conduct a fraudulent, negligent or incomplete inspection of a conveyance.
- c) Issuance of Administrative Citation
 - 1) ~~The~~OSFM may issue a written administrative citation. ~~in writing and~~ The citation shall specifically describe the nature of the violation and its location and shall include a reference to the particular Section of the Act or this Part or the specific standard alleged to have been violated. The citation shall also state the amount of the fine levied in accordance with subsection ~~(e)(d)~~ and the process for appeal.
 - 2) The person alleged to have committed the violation shall have 30 days from the date of service of the notice to notify the Board in writing of any

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intent to appeal the citation and fine. If no notice of appeal is filed, the citation and penalty shall be deemed a final order of ~~the~~ OSFM.

- 3) Administrative citations and penalties issued under this Section shall not limit the authority of ~~the~~ OSFM to issue orders, revoke permits, stop work on construction and/or order the electrical power to be disconnected, or take any other appropriate enforcement action.

d) Appeal of a Citation

- 1) A person who appeals a citation issued by ~~the~~ OSFM shall be entitled to a hearing before the Board or the Board's designee within 90 days after filing the notice of appeal. The 90 day time frame may be extended, with OSFM approval, if the appellant requests in writing additional time to prepare for the hearing.
- 2) The Board shall provide a hearing notice to the appellant that shall include the following information:
 - A) A statement of the time, place, and nature of the hearing;
 - B) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - C) A reference to the Sections of the Act and this Part involved and/or the specific State code involved;
 - D) A short and plain statement of the matters at issue.
- 3) The Board may appoint a hearing officer to hear evidence on any appeal, prepare findings, and recommend a decision.
- 4) The appellant may appear at the hearing with counsel, and may present evidence, and cross-examine witnesses.
- 5) An opportunity shall be given all parties to respond and present evidence and arguments on all issues involved.

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- 6) At the close of the evidence, the Board shall issue a written decision with findings of fact and conclusions of law determining whether a violation has occurred and the amount of any penalty, if any, to be assessed.
 - 7) Nothing in this Section shall prohibit the informal disposition of a citation by stipulation, agreed settlement, consent order, or default. Informal disposition may proceed with clear and simple documentation without complete adherence to this Section.
- e) Administrative Penalty/Fine
- 1) *Any owner or lessee who violates any of the provisions of the Act or this Part shall be subject to a fine not to exceed \$1,500 per day for each violation [225 ILCS 312/110(b)] ~~is guilty of a Class C misdemeanor.~~ Violation of the Act by any licensee shall be subject to the penalties under Section 65 of the Act.*
 - 2) Licensure Violation
 - A) The fine shall not exceed \$2,000 for each instance for any person or business that performs elevator work without being properly licensed as required by this Part.
 - B) The fine shall not exceed \$2,000 for each instance for any contractor that allows an individual who does not possess a valid license required by this Part to perform work on a conveyance covered by the Act, ~~who does not possess a valid license required by this Part.~~
 - C) ~~The~~ OSFM may suspend or revoke any license when the licensee fails to pay assessed penalties or willfully or repeatedly violates the Act or this Part.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.180 Service or Inspection of Non-Compliant Conveyances **Implementation Schedule**

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- a) Inspectors, contractors and mechanics are not permitted to service an unregistered existing conveyance that is required by the Act to be registered without prior permission from OSFM, except as provided in this Section.
- ba) Licensed elevator contractors and licensed inspection companies shall request from the conveyance owner the conveyance's registration number and a copy of the current Certificate of Operation. If necessary, a 30-day extension may be obtained from OSFM so that a conveyance owner may register a conveyance. A 60-day one-time extension may be obtained from OSFM so that a conveyance owner can schedule an inspection in order to obtain a Certificate of Operation. OSFM will grant the 30-day extension or 60-day extension so that service may be performed. Forms for submitting an extension request are available on the OSFM website at www.sfm.illinois.gov under the Elevator Safety link. In municipalities that have a local elevator agreement with OSFM, the conveyance owner must apply to the municipality for an extension to obtain a current Certificate of Operation. ~~Grandfathering. The OSFM may issue an elevator mechanic or limited elevator mechanic license, in accordance with Section 45(c)(2) of the Act (grandfathering), to a person applying by December 31, 2007.~~
- cb) Exceptions to Obtaining Advance Permission from OSFM to Work on a Non-Compliant Conveyance
- 1) All Elevators and Conveyances
Should a situation occur in which an elevator contractor has been contacted to remove a trapped or injured person from a conveyance or render the conveyance out of service for reasons of safety, the licensee may perform that work, but must notify OSFM via email or phone call the next business day after performing the service.
 - 2) Registered Conveyances with an Expired Certificate of Operation
 - A) The inspection company may have its licensed inspector perform the requested inspection prior to receiving permission from OSFM or the Local Administrator, provided the inspection company notifies OSFM or the Local Administrator via email or phone call or other means the next business day, providing the location of the conveyance that is registered but lacks a current Certificate of Operation. The inspector may put the conveyance out of order if he/she determines the conveyance is unsafe to operate.

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- B) A licensed mechanic may work on a conveyance with an expired Certificate of Operation if there is a final inspection report not older than 30 days posted in the equipment room prior to the conveyance owner applying for and receiving its annual Certificate of Operation. Should the inspection report be older than 30 days, the elevator contractor/mechanic must notify OSFM or the Local Administrator via email or phone call or other means the next business day, providing the location of the conveyance.
- ~~Implementation of Elevator Mechanic and Limited Elevator Mechanic Licenses. By July 1, 2008, any holder of a temporary elevator mechanic or temporary limited elevator mechanic license issued under Section 1000.80(c) of the emergency rules creating this Part shall acquire a permanent license under Section 1000.80(a) if he or she plans to continue to perform as an elevator mechanic or limited elevator mechanic.~~
- e) ~~Initial Implementation of Elevator Inspector License. Each company that employs an elevator inspector must submit to OSFM a letter identifying the name of each inspector in its employment by July 1, 2008. Any of those identified inspectors must apply for Illinois inspector licensure by July 1, 2008 unless they have already been issued an inspector license under the Act. After July 1, 2008, any individual who has not been issued an elevator inspector license by OSFM is prohibited from inspecting conveyances in this State.~~
- d) ~~Initial Implementation of Conveyance Registration – Existing. All conveyances that were in operation when these proposed rules were adopted shall be registered by November 1, 2008. Inspectors, contractors and mechanics are permitted to service an unregistered existing conveyance one time after November 1, 2008 and provide the owner with notice that the conveyance is required to be registered. The conveyance may not be serviced thereafter until it is properly registered with the OSFM.~~
- e) ~~Initial Implementation of Conveyance Registration – New. All new conveyances shall be required to have a certificate of operation after March 1, 2008.~~
- f) ~~Local Programs. Municipalities and counties that intend to regulate conveyances must submit an Elevator Safety Program Agreement with the Board. This~~

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~~agreement includes, but is not limited to, the information required in Section 1000.40.~~

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)

Section 1000.190 Conveyance Maintenance, Repair, and Upgrade History

All licensed conveyance contractors shall maintain records on all work conducted for a period of at least 10 years. Records shall be organized by location and conveyance registration number for ease of review.

(Source: Added at 36 Ill. Reg. 13131, effective October 1, 2012)

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- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1800.110	Amendment
1800.250	Amendment
1800.270	Amendment
1800.930	Amendment
- 4) Statutory Authority: Implementing and authorized by the Video Gaming Act [230 ILCS 40]
- 5) Effective date of rulemaking: July 30, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: April 20, 2012, 36 Ill. Reg. 5935; and April 27, 2012, 36 Ill. Reg. 6197
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Three nonsubstantive grammatical changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1800.820	New Section	36 Ill. Reg. 9377, June 29, 2012

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1800.230	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.250	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.260	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.310	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.520	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.830	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.1310	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.110	Amendment	36 Ill. Reg. 10578, July 20, 2012
1800.1410	Amendment	36 Ill. Reg. 10578, July 20, 2012
1800.250	Amendment	36 Ill. Reg. 12699, August 10, 2012

15) Summary and Purpose of Rulemaking: The rulemaking makes amendatory changes pertaining to the following: definitions of "licensed terminal handler" and "licensed technician"; notification of assignments; responsibility for liability insurance coverage; and registration of financing lenders. Each of these changes is summarized below.

- Definitions of "licensed terminal handlers and licensed technicians": The rulemaking amends the definitions of "licensed terminal handler" and "licensed technician" in Section 1800.110, Definitions, to conform to the statutory definitions of these terms contained in Section 5 of the Video Gaming Act (Act) [230 ILCS 40/5]. As part of the revised definition of "licensed terminal handler", the rulemaking also establishes the meaning of the phrase "inner workings."

In conformity with Section 5 of the Act, the rulemaking provides that a licensed terminal handler 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 rule defines this term according to its most reasonable interpretation, namely, the innermost locked area of a video gaming terminal which houses electronic logic components that have the potential to significantly influence the operation of the video gaming terminal (VGT).

In contrast, the definition of "licensed technician" contained in Section 5 of the Act and incorporated into the present rulemaking 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

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operation of the VGT. Such repairs and maintenance include refilling printer paper, repairing bill validators, resetting tilted machines, repairing video displays, etc.

- Notification of assignments: At present, a terminal operator can assign a location agreement without notifying either the Board or the affected location. The Board needs this notification to ensure there are no gaps in its regulation of terminal operators and licensed locations, and the affected location should likewise receive notification as a matter of basic business fairness and contract transparency. The proposed amendment will amend Section 1800.250 of the video gaming rules (11 Ill. Adm. Code 1800.250) to require a terminal operator which assigns a location agreement to provide both the Board and the affected location with prompt notification of the assignment.
- Responsibility for liability insurance coverage: The rulemaking establishes consistency between the Video Gaming Act and its implementing rules on the subject of responsibility for liability insurance coverage. Section 57 of the Video Gaming Act [230 ILCS 40/57] currently provides that a terminal operator shall maintain liability insurance coverage on any gaming device that it places in a licensed location. In contradiction to this statutory provision, Section 1800.270 of the video gaming rules, Duties of Licensed Video Locations (11 Ill. Adm. Code 1800.270), imposes responsibility for purchase of the liability coverage on the licensed location. The proposed amendment deletes the inconsistent language in Section 1800.270, thus making clear that responsibility for purchase of liability coverage rests solely with the terminal operator.
- Registration of financing lenders: The rulemaking provides that registration of financing lenders shall be mandatory only where video gaming terminals (VGTs) are secured as collateral. Section 1800.930 of the video gaming rules, Prior Registration (11 Ill. Adm. Code 1800.930), currently provides that "[f]inancing for video gaming terminals may only be secured from a person who has registered with the Board on forms provided by the Board". This provision is too broad. There is no regulatory need or authority for Board registration of lenders for the acquisition of video gaming terminals unless there is a possibility that the lenders will be enforcing a security interest in the VGTs (for example, the lender forecloses on the VGTs) if the borrower defaults. The rulemaking therefore changes the language of Section 1800.930 to require registration with the Board only for those financing arrangements in which one or more VGTs are secured as collateral.

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- 16) Information and questions regarding these adopted amendments may be addressed to:

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

Telephone No. 312/ 814-7137
Fax No. 312/814-7253

The full text of the Adopted Amendments 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, REGISTRATION,
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
- 1800.1065 Registration 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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SUBPART L: FINGERPRINTING OF APPLICANTS

Section

1800.1210	Definitions
1800.1220	Entities Authorized to Perform Fingerprinting
1800.1230	Qualification as a Livescan Vendor
1800.1240	Fingerprinting Requirements
1800.1250	Fees for Fingerprinting
1800.1260	Grounds for Revocation, Suspension and Denial of Contract

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. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012.

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.

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"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 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

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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.

"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.

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"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 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);

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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.

"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 which 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

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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 which 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.

"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.

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"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:

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.

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"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

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,

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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.

"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. 13178, effective July 30, 2012)

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SUBPART B: DUTIES OF LICENSEES

Section 1800.250 Duties of Licensed Video Terminal Operators

In addition to all other duties and obligations required by the Act and this Part, each licensed terminal operator has an ongoing duty to comply with the following:

- a) Assume the primary responsibility for the operation and maintenance of video gaming terminals and for payment of tax remittance to the State as required by the Act;
- b) Maintain and provide, either directly or through a licensed manufacturer, distributor, supplier or technician, an inventory of associated video gaming equipment to ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- c) Ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- d) Assume responsibility for the payment of valid receipt tickets issued by video gaming terminals it operates;
- e) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- f) Assume responsibility for terminal and associated video gaming equipment malfunctions, including any claim for the payment of credits arising from malfunctions;
- g) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;
- h) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;
- i) Maintain a separate bank account for each licensed video gaming location for deposit of aggregate revenues generated from the play of video gaming terminals and allow for electronic fund transfers for tax payments;

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- j) Enter into written use agreements with licensed video gaming locations that comply with the Act and this Part;
- k) Obtain and install, at no cost to the State and as required by the Board, all hardware, software and related accessories necessary to connect video gaming terminals to a central communications system;
- l) Offer or provide nothing of value to any licensed video gaming location or any agent or representative of any licensed video gaming location as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- m) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;
- n) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- o) Respond to service calls within a reasonable time from the time of notification by the video gaming location;
- p) Immediately remove all video gaming terminals from the restricted area of play:
 - 1) upon order of the Board or an agent of the Board, or
 - 2) that have been out of service or otherwise inoperable for more than 72 hours;
- q) Provide the Board with a current list of video gaming terminals acquired for use in Illinois; ~~and~~
- r) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee; ~~and-~~
- s) Provide prompt notice of an assignment of a use agreement to the Board, the affected location, and the central communications system vendor.

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(Source: Amended at 36 Ill. Reg. 13178, effective July 30, 2012)

Section 1800.270 Duties of Licensed Video Gaming Locations

In addition to all other duties and obligations required by the Act and this Part, each licensed video gaming location has an ongoing duty to comply with the following:

- a) Provide a secure premise for the placement, operation and play of video gaming terminals;
- b) Permit no one to tamper with or interfere with the approved operation of any video gaming terminal;
- c) Ensure that all connections with the central communications system and associated video gaming equipment are at all times maintained and prevent any person from tampering or interfering with the approved, continuing operation of the central communications system;
- d) Accept nothing of value from any video terminal operator or any agent or representative of any video terminal operator as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- e) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- f) Immediately remove all video gaming terminals from the restricted area of play:
 - 1) upon order of the Board or an agent of the Board, or
 - 2) that have been out of service or otherwise inoperable for more than 72 hours;
- g) Enter written use agreements with licensed video terminal operators that comply with this Part;
- h) Ensure that video gaming terminals are placed and remain in a designated, approved location;

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- i) Prevent access to or play of video gaming terminals by persons who are under the age of 21 years or who are visibly intoxicated;
- j) Commit no violations of the laws of this State concerning the sale, dispensing or consumption on premises of alcoholic beverages that results in suspension or revocation of any liquor license held by or associated with a licensed video gaming location;
- k) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- l) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;
- m) Promptly report all malfunctions of video gaming terminals and all out-of-service terminals to the video terminal operator and promptly notify the Board of a terminal operator's failure to provide service and repair of terminals and associated equipment within 24 hours after notice to the terminal operator;
- n) Install, post and display signs as required by the Board;
- o) Promptly notify the Board of any unauthorized or illegal video gaming terminals or any video gaming device that is in violation of Section 35 of the Video Gaming Act;
- p) Exercise control over the licensed video gaming location;
- q) Promptly notify the Board of any action taken on or related to any liquor license held; and
- ~~r) Maintain insurance coverage on all gaming devices in an amount set by the Board; and~~
- rs) Allow maintenance and/or service of video gaming terminals and associated video gaming equipment only by licensed technicians and licensed terminal handlers possessing valid identification issued by the Board.

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(Source: Amended at 36 Ill. Reg. 13178, effective July 30, 2012)

SUBPART I: SECURITY INTERESTS

Section 1800.930 Prior Registration

- a) ~~Video Financing for video~~ gaming terminals may only be ~~provided by, and~~ secured ~~as collateral by~~ from, a person who has registered with the Board on forms provided by the Board.
- b) Prior registration of the secured party seeking to enforce a security interest is required. The Board will not approve the enforcement of any security interest in gaming property collateral unless all persons have been either registered or licensed, as applicable.

(Source: Amended at 36 Ill. Reg. 13178, effective July 30, 2012)

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- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3000.100	Amendment
3000.625	Amendment
- 4) Statutory Authority: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), (6), (7), and (13) of that Act [230 ILCS 10/5 (c) (2), (3), (6), (7), and (13)]
- 5) Effective date of rulemaking: July 31, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: April 13, 2012; 36 Ill. Reg. 5694
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and purpose of rulemaking: Multi-position devices: The rulemaking amends Section 3000.100, Definitions (86 Ill. Adm. Code 3000.100), by changing the definition of "Electronic Gaming Device: to include multiple- position devices in the following categories: reel-type, single-game video, and multi-game video. Currently, the definition of "Electronic Gaming Device" only includes single-position devices in these categories.

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The Illinois Gaming Board has already approved and allowed an Electronic Gaming Device with multiple positions.

Chip identification: The rulemaking amends Section 3000.625, Chip Specifications (86 Ill. Adm. Code 3000.625), to require that each chip issued by the holder of an owners license shall have permanently impressed, engraved, or imprinted upon it the location of the issuing Riverboat Gaming Operation. This change will make the identification requirements for chips consistent with those for tokens. Tokens issued by, or used in, Riverboat Gaming Operations must clearly identify their location under Section 635 of the riverboat gambling rules, Issuance and Use of Tokens and Vouchers for Gaming (86 Ill. Adm. Code 3000.635).

- 16) Information and Questions regarding this adopted rulemaking may be addressed to:

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

Phone No. 312/814-7317
Fax No. 312/814-7253

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

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

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- 3000.1000 Ownership Records
 - 3000.1010 Accounting Records
 - 3000.1020 Standard Financial and Statistical Records
 - 3000.1030 Annual and Special Audits and Other Reporting Requirements
 - 3000.1040 Accounting Controls Within the Cashier's Cage
 - 3000.1050 Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
 - 3000.1060 Handling of Cash at Gaming Tables
 - 3000.1070 Tips or Gratuities
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SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

- Section
- 3000.1100 Coverage of Subpart

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3000.1105	Duty to Maintain Suitability
3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
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AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010; amended at 34 Ill. Reg. 3748, effective March 11, 2010; amended at 34 Ill. Reg. 4768, effective March 16, 2010; amended at 34 Ill. Reg. 5200, effective March 24, 2010; amended at 34 Ill. Reg. 15386, effective September 23, 2010; amended at 36 Ill. Reg. 13199, effective July 31, 2012.

SUBPART A: GENERAL PROVISIONS

Section 3000.100 Definitions

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

"Act": The Riverboat Gambling Act [230 ILCS 10].

"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.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being.

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

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency and/or Vouchers, validates the currency and/or Vouchers, stores the currency and/or Vouchers, and issues Electronic Credits equal to the value of currency and/or Vouchers inserted into the device.

"Board": The Illinois Gaming Board.

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

"Chip": A non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a holder of an Owner's license for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

"Chip Float": The difference between the total face value of Chips received from vendors and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Computer Monitoring System": The gaming related system used to provide on-line, real-time monitoring of Electronic Gaming Devices and data acquisition capability in the format and media approved by the Administrator.

"Dependent": Any individual who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's license for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single- and Multiple-Position Reel-Type, Single- and Multiple-Position Single-Game Video and Single- and Multiple-Position Multi-Game Video Electronic Gaming Devices.

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) collected from the drop bucket and United States currency and/or Vouchers collected from the Bill Validator drop box.

"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills minus Vouchers issued.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which

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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 an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List but who is excluded or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of this Part.

"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming operation or pose a threat to the interests of the State of Illinois.

"Expiration Date": The one-year period, starting on the day of issuance, during which Vouchers may be redeemed for United States currency at a cashier's cage of a Riverboat Gaming Operation.

"Game": A gambling activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, 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 Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation: electronic, electrical, or mechanical devices or machines; cards or dice; layouts for Live Gaming Devices; any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards; Voucher Systems; Voucher Printers; Voucher Validation Terminals; Computer Monitoring Systems; and hardware and software related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's license who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

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"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect Interest": An interest in a Business Entity that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the business entity but through the holder's holdings in other business entities.

"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 230.144A) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal procedures and administration and accounting controls designed by the holder of an Owner's license for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity that facilitates a patron's participation in gaming at a Riverboat Gaming Operation and is compensated, not as an employee but as an independent contractor, by that Operation based upon how much the patron actually wagers or loses.

"Key Person": A Person identified by the Board under Section 3000.222 as subject to regulatory approval as a Person able to control, or exercise significant influence over, the management, assets, or operating policies of an owner or supplier licensee.

"Live Gaming Device": Any apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the object of a wager. This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

"Marketing Agent": A person or entity, other than a junketeer or an employee of a Riverboat Gaming Operation, who is compensated by the Riverboat Gaming Operation in excess of \$100 per patron per trip for identifying and recruiting patrons.

"Non-Alterable Storage Media": An electronic storage medium that contains the program files that operate the game, which medium cannot be altered through the

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use of the circuitry or programming of the gaming device.

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, Exclusion or other action issued by the Board.

"Parent Company": A "parent company" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

"Payout": Winnings earned on a wager.

"Person": "Person" includes both individuals and Business Entities.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award.

"Redemption Period": The 120-day period during which a Voucher may be used to acquire electronic credits from an Electronic Gaming Device or to obtain United States currency from a Voucher Validation Terminal. After their Redemption dates and prior to their Expiration dates, Vouchers may be redeemed for United States currency only at a cashier cage of a Riverboat Gaming Operation.

"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

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"Remote Access": Communication with an electronic information system from a remote location or facility through a data link.

"Riverboat": A navigable vessel or a permanently moored vessel comprised of one or more barges that are permanently attached to operate as one barge.

"Riverboat Gaming Operation": The owner licensee, Gaming Operations Manager, or, as the context requires, the conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail goods and services, and transportation, on a Riverboat and at its Support Facilities.

"Signature": The definitive identity of an individual specific EPROM chip or other non-alterable storage media, determined by electronic analysis and reflective of the EPROM chip's game behavior capability.

"Substantial Owner": A person who has an ownership interest of 25% or more in a Business Entity.

"Supplier": A provider of Gaming Equipment/Supplies, Gaming Equipment maintenance or repair services, security services or a lessor of a Riverboat or dock facility.

"Support Facility": A place of business which is part of, or operates in conjunction with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's license or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

"Table Win": The dollar amount won by the holder of an Owner's license through play at a live Game which is the total of the Table Drop plus ending Chip inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens or Electronic Credits from amounts wagered that will be returned to players by an Electronic Gaming Device.

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"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's license for use in Gaming.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into the device.

"Token Float": The difference between the total face value of Tokens received from vendors and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Tournament EPROM": A specially designed EPROM with a mode of play that provides for a mathematically demonstrable payout of more than 100 percent.

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

"Voucher": A printed paper scrip representing the value in United States currency stated on the face of the scrip that is issued by a Voucher Printer connected to an Electronic Gaming Device at a Riverboat Gaming Operation and which scrip is redeemable for electronic credits or United States currency and is not a coupon or other promotional item.

"Voucher Float": The difference between the total face value of unexpired Vouchers issued by a Riverboat Gaming Operation and the total face value of Vouchers accounted for by the Riverboat Gaming Operation as redeemed or expired.

"Voucher Printer": A device designed for the purpose of issuing Vouchers at Electronic Gaming Devices at a Riverboat Gaming Operation.

"Voucher System": The hardware and software used to issue and validate Vouchers, record redemptions and account for Vouchers.

"Voucher Validation Terminal": A hard-wired and interfaced device that accepts Vouchers and communicates the Voucher information to the Voucher System for

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the System to validate the information. If the System confirms that the Voucher is valid, the terminal then stores the Voucher and issues United States currency equal to the value of the Voucher.

"Wager": A sum of money or thing of value risked.

(Source: Amended at 36 Ill. Reg. 13199, effective July 31, 2012)

SUBPART F: CONDUCT OF GAMING

Section 3000.625 Chip Specifications

- a) Value Chips
 - 1) Each Chip issued by a holder of an Owner's License shall be round in shape, have clearly and permanently impressed, engraved or imprinted thereon the name and location of the issuing Riverboat Gaming Operation and the specific value of the Chip, except that a holder of an Owner's License may issue Gaming Chips without a value impressed, engraved or imprinted thereon for Roulette. Chips with a value contained thereon shall be known as "Value Chips" and Chips without a value contained thereon shall be known as "Non-Value Chips."
 - 2) Value Chips may be issued by the holder of the Owner's License in denominations of \$.25, \$.50, \$1.00, \$2.50, \$5.00, \$20.00, \$25.00, \$100.00, \$500.00, \$1,000.00 and \$5,000.00. The holder of the Owner's License shall have the discretion to determine the denominations to be utilized on its Riverboat and the amount of each denomination necessary for the conduct of Gaming operations.
 - 3) Each denomination of Value Chip shall have a different primary color from every other denomination of Value Chip. Value Chips shall fall within the colors set forth below when such Chips are viewed both in daylight and under incandescent light. In conjunction with such primary colors, each holder of an Owner's License shall utilize contrasting secondary colors for the edge spots on each denomination of Value Chip. Unless otherwise approved by the Administrator, no holder of an Owner's License shall use a secondary color on a specific denomination of Chip identical to the secondary color used by another holder of an Owner's

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License on that same denomination of the Value Chip. The primary color to be utilized by each holder of an Owner's License for each denomination of Value Chip shall be:

- A) \$0.25 – "Blue";
 - B) \$0.50 – "Mustard Yellow";
 - C) \$1.00 – "White";
 - D) \$2.50 – "Pink";
 - E) \$5.00 – "Red";
 - F) \$20.00 – "Yellow";
 - G) \$25.00 – "Green";
 - H) \$100.00 – "Black";
 - I) \$500.00 – "Purple";
 - J) \$1,000.00 – "Fire Orange"; and
 - K) \$5,000.00 – "Gray".
- 4) Each denomination of Value Chip utilized by a holder of an Owner's License shall, unless otherwise authorized by the Administrator:
- A) Have its center portion, which contains the value of the Chip and the Riverboat Gaming Operation issuing it, of a different shape for each denomination;
 - B) Be designed so as to be able to determine on closed circuit black and white television the specific denomination of such Chip when placed in a stack of Chips of other denominations; and
 - C) Be designed, manufactured and constructed so as to prevent, to the greatest extent possible, the counterfeiting of such Chips.

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- 5) The Board shall have the discretion to approve a Value Chip in the denomination of \$1,000.00 or \$5,000.00 at variance with the requirements of this Section provided that any variation is specifically identified as such by the holder of the Owner's License and provided further that said variation does not affect the control, security or integrity of said Chips or the operation of the Games.
- b) Non-Value Chips
- 1) Each Non-Value Chip utilized by a Riverboat shall be issued solely for the purpose of Gaming at roulette. The Non-Value Chips at each roulette table shall:
 - A) Have the name of the Riverboat Gaming Operation issuing it molded into its center;
 - B) Contain a design, insert or symbol differentiating it from the Non-Value Chips being used at every other roulette table in the Riverboat;
 - C) Have "roulette" impressed on it; and
 - D) Be designed, manufactured and constructed so as to prevent, to the greatest extent possible, the counterfeiting of such Chips.
 - 2) Non-Value Chips issued at a roulette table shall only be used for Gaming at that table and shall not be used for Gaming at any other table in the Riverboat nor shall any holder of an Owner's License or its employees allow any Riverboat patron to remove Non-Value Chips permanently from the table from which they were issued.
 - 3) No person at a roulette table shall be issued or permitted to Game with Non-Value Chips that are identical in color and design to Value Chips or to Non-Value Chips being used by another person at the same table. When a patron purchases Non-Value Chips, a Non-Value Chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel. At that time, a marker button denoting the value of a stack of 20 Chips of that color shall be placed in the slot or receptacle.

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- 4) Non-Value Chips shall only be presented for redemption at the table from which they were issued and shall not be redeemed or exchanged at any other location in the Riverboat Gaming Operation. When so presented, the dealer at such table shall exchange them for an equivalent amount of Value Chips which may then be used by the patron in Gaming or redeemed as any other Value Chips.
- 5) Each holder of an Owner's License shall have the discretion to permit, limit or prohibit the use of Value Chips in Gaming at roulette provided, however, that it shall be the responsibility of the holder of an Owner's License to keep accurate account of the Wagers being made at roulette with Value Chips so that the Wagers made by the one player are not confused with those made by another player at the table.

(Source: Amended at 36 Ill. Reg. 13199, effective July 31, 2012)

DEPARTMENT OF TRANSPORTATION

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

<u>Section Numbers:</u>	<u>Adopted 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 108-59)
- 5) Effective Date of Amendments: August 3, 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 Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 20, 2012; 36 Ill. Reg. 5971
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Non-substantive grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: This rulemaking was 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 required 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 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

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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.

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

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

217/785-1181

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED 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. 13218, effective August 3, 2012.

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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

DEPARTMENT OF TRANSPORTATION

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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. 13218, effective August 3, 2012)

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~~ ~~medial~~ 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" (lower case) 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" (capitalized) ~~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 and 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. 13218, effective August 3, 2012)

DEPARTMENT OF TRANSPORTATION

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- 1) Heading of the Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Number: 391.2000 Adopted Action: 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]
- 5) Effective Date of Amendment: August 3, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 20, 2012; 36 Ill. Reg. 5996
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 391.2000(c)(2)(A), (B) and (C), "this Part" was changed to "49 CFR 391.15".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking was 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

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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 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

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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.

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

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

217/785-1181

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

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. 13242, effective August 3, 2012.

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 49 CFR 391.15, 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 49 CFR 391.15, 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 49 CFR 391.15, 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

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motor vehicle used in intrastate commerce.

- ~~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 ~~that which~~ either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or ~~that which~~ is designed to transport more than 15 passengers, including the driver; or ~~that 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 ~~that 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 ~~that which~~ made the IMCSR applicable to vehicles described in this subsection (c)(5) 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 ~~that 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:

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Except as provided by 49 CFR 391.43(b), the medical examination 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 subsection 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. 13242, effective August 3, 2012)

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- 1) Heading of the Part: Driving of Commercial Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3) Section Number: 392.2000 Adopted Action:
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]
- 5) Effective Date of Amendment: August 3, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 20, 2012; 36 Ill. Reg. 6003
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Non-substantive grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking was 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

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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 adopted 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 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.

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

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Springfield, Illinois 62794-9212

217/785-1181

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

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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. 13249, effective August 3, 2012.

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. 13249, effective August 3, 2012)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Oversize and Overweight Permit Movements on State Highways

2) Code Citation: 92 Ill. Adm. Code 554

<u>Section Numbers:</u>	<u>Adopted Action:</u>
554.101	Amend
554.102	Amend
554.103	Amend
554.104	Amend
554.105	Amend
554.106	Amend
554.107	Amend
554.108	Amend
554.110	Amend
554.111	Amend
554.201	Amend
554.202	Amend
554.203	Amend
554.204	Amend
554.206	Amend
554.210	Amend
554.211	Amend
554.212	Amend
554.301	Amend
554.303	Amend
554.305	Amend
554.306	Amend
554.307	Amend
554.309	Amend
554.312	Amend
554.313	Amend
554.314	Amend
554.315	Amend
554.402	Amend
554.403	Amend
554.407	Amend
554.412	Amend
554.413	Amend
554.414	Amend

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554.416	Amend
554.420	Amend
554.422	Amend
554.423	Amend
554.424	Amend
554.425	Amend
554.426	Amend
554.429	Amend
554.501	Amend
554.502	Amend
554.503	Amend
554.504	Amend
554.505	Amend
554.508	Amend
554.509	Amend
554.510	Amend
554.511	Amend
554.512	Repeal
554.513	Repeal
554.514	Repeal
554.515	Repeal
554.516	Repeal
554.517	Repeal
554.518	Repeal
554.602	Amend
554.603	Amend
554.604	Amend
554.605	Amend
554.606	Amend
554.607	Amend
554.608	Amend
554.611	New
554.705	Amend
554.706	Amend
554.709	Amend
554.710	Amend
554.801	Amend
554.803	Amend
554.807	Amend

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554.902	Amend
554.903	Amend
554.904	Amend
554.906	Amend
554.907	Amend
554.908	Amend
554.909	Amend
554.911	Amend

- 4) Statutory Authority: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III]
- 5) Effective Date of Amendments: August 1, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Highways and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 6, 2012; 36 Ill. Reg. 5378
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various changes have been made in agreement with JCAR.

At Section 554.204(h)(2), the Department reformatted and renumbered the language.

At Section 554.425(d), the Department revised the subsection to read as follows:

- "d) A permitted load operating on an unauthorized State-maintained highway is prohibited from further movement until the Department provides a new route to return the permittee to the routing authorized in the permit."

At Section 554.807(b)(2), the Department reformatted and renumbered the language.

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At Section 554.807(d), the Department moved the Note.

At Section 554.908, the Department deleted "assessed" and kept "~~charged~~".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Following are summaries of the significant changes that were made to this Part.

At Section 554.105, the Department added language to make it easier for companies to obtain permits under multiple names.

At Section 554.106, the Department referenced Form OPER 993 because it is commonly understood by industry. The provisions in Form OPER 993 are covered in the rule:

- READ YOUR PERMIT BEFORE STARTING YOUR MOVE – See Sections 554.106 and 554.209.
- THIS FORM IS PART OF YOUR PERMIT – See Section 554.426.
- CONDITIONS THAT APPLY – See Section 554.405.
- PERMIT TO ACCOMPANY MOVEMENT – See Section 554.426.
- AGREEMENT – See Section 554.106.
- ASSIGNED PERMITTED ROUTE – See Section 554.430.
- AUTHORIZED TIMES OF MOVEMENT – See Section 554.422.
- AXLE SPACINGS – See Section 554.611.
- DISCLAIMER – See Section 554.501(e).
- FLASHING OR ROTATING AMBER LIGHT – See Section 554.413.
- HIGHWAY CONDITIONS IN INCLEMENT WEATHER – See Section 554.422(a)(2).
- JURISDICTION – See Section 554.313(b).
- LEGAL HEIGHT MOVEMENTS – See Section 554.429.
- LIABILITY INSURANCE – See Section 554.108.
- LOCATIONS WHERE PERMIT IS NOT VALID – See Section 554.423.
- OVERWEIGHT MOVEMENTS – See Section 554.601.

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- PUBLIC AND PRIVATE LIABILITY – See Section 554.106(b)(5).
- RESTRICTIONS IN CITY OF CHICAGO – See Section 554.422.

- RESTRICTIONS IN COOK COUNTY – See Sections 554.422 and 554.606.
- RESTRICTIONS ON MOVEMENTS – See Sections 554.423 and 554.425.
- RIGHT OF WAY DURING MOVEMENT – See Section 554.428.
- SPEED – See Section 554.420.
- VIOLATION OF PERMIT – A CLARIFICATION OF 625 ILCS 5/15/301(h) – See Section 554.107.
- ESCORT VEHICLES – See Section 554.407.
- HOUSETRAILERS – See Section 554.409.
- OVERLENGTH OBJECTS – See Section 554.418.
- OVERSIZE LOAD SIGNS – See Section 554.419.
- RED FLAGS – See Section 554.417.

At Section 554.201, the Department added language concerning certain movements that, upon adoption of this rulemaking, may safely be made 7 days a week.

At Section 554.202, the Department deleted language at subsection (c) because the Department no longer issues round trip permits when the return trip is different.

At Section 554.204, the Department added language covering all limited continuous operation permits to bring the rule up to current practice.

At Section 554.206, the Department added language for consistency with Section 15-301(e) of the Illinois Vehicle Code (Code).

At Section 554.210, the Department made a change at subsection (c) to bring the rule up to current practice.

At Section 554.211, the Department is no longer issuing second revised permits. Upon adoption of this rulemaking, only one revision per permit will be issued. Based upon information provided by the Illinois State Police, the Department has determined that more than one revision per permit results in an illegal use of a permit.

At Section 554.301, the Department added language to clarify that most permits can be applied for via Internet 24 hours a day, 7 days a week, but permits are only processed

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during the normal working hours of the Permit Office, with a few exceptions (see Section 554.303 of the proposed text).

At Section 554.306, the Department amended language at subsection (d) for consistency with Section 15-301(e) of the Code.

At Section 554.309, the Department clarified that fees will incur if any engineering inspections or investigations are required.

At Section 554.312, the Department made changes to this Section for consistency with the Illinois State Toll Highway Authority's policies to sometimes allow heavier loads on toll roads and to increase the width allowed on all toll roads.

At Section 554.313, the Department added language at subsection (d) to clarify that the applicant must obtain permission from the proper local authority to use local streets or highways, or from the Illinois State Toll Highway Authority when traveling over the Tollway.

At Section 554.407, the Department made changes to lessen the need for State Police escorts.

At Section 554.413, the Department made a change for consistency with Section 15-111 of the Code.

At Section 554.420, the Department made a change to allow permitted vehicles to go faster due to the statutory speed limit change of January 2009.

At Section 544.422, the Department expanded the hours of movement of certain permitted loads because it has been demonstrated that expanded hours result in no safety issues for the traveling public. Additionally, the Department provided rules for permitted moves on State Roads in Cook County and the City of Chicago and advising industry to contact the Cook County Permit Office and City of Chicago Permit Office concerning roads under Cook County or City of Chicago jurisdiction.

At Section 554.425, the Department made a change to clarify that a truck should not follow a detour; rather, the permittee should pull over and make contact with the Permit Office to obtain a route to use when there is a deviation from the route specified on the permit.

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At Section 554.501, the Department added indemnification language to the rule.

At Section 554.503, the Department clarified exceptions to legal limitations per the Code.

At Section 554.504, the Department made a change in agreement with Cook County, although the change is not new to the permit program, that certain movements are prohibited on certain expressways in Cook County.

At Section 554.505(e), the Department tightened a provision in subsection (3) to reduce the probability of oversized permits operating in unauthorized construction zones and updating language to reflect current practice.

At Section 554.508, the Department clarified, to reflect current practice, what is required when submitting a route survey.

At Section 554.510, the Department added language to bring the rule up to current practice.

At Section 554.511, the Department reorganized the provisions pertaining to the movement of buildings. Language was moved from Sections 554.512 – 554.518 and consolidated under this Section for ease of comprehension.

At Section 554.604, the Department made a change to bring the rule up to current practice.

At Section 554.605, the Department made a change to clarify that superload moves normally require additional fees.

At Section 554.607, the Department changed the provision in subsection (b) to apply to all single trip permits, not just superload permits.

At Section 554.611, the Department added a new Section prescribing permit axle spacing requirements to bring the rule up to current practice.

At Section 554.705, the Department made a change consistent with Section 15-301(n) of the Code.

At Section 554.709, the Department made changes to bring the rule up to current practice.

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At Section 554.807, the Department made changes consistent with Section 15-301(n) of the Code which was changed in 2007.

At Section 554.904, the Department clarified its refund policy and is clarifying its current practice that a permit must be postmarked at least one day prior to the effective date of the permit.

At Section 554.911, the Department changed language consistent with Section 15-312 of the Code which prescribes that the Illinois State Police can collect processing fees for the use of Illinois State Police escorts.

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

Mr. Steven Todd, Permit Unit Chief
Illinois Department of Transportation
Division of Highways, Bureau of Operations
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764

217/785-8967

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 554

OVERSIZE AND OVERWEIGHT PERMIT MOVEMENTS ON STATE HIGHWAYS

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AUTHORITY: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III].

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SOURCE: Emergency rules adopted at 4 Ill. Reg. 2, p. 256, effective January 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 24, p. 586, effective May 29, 1980; codified at 7 Ill. Reg. 9672; amended at 11 Ill. Reg. 3248, effective February 3, 1987; amended at 12 Ill. Reg. 13232, effective July 29, 1988; amended at 20 Ill. Reg. 2565, effective January 25, 1996; amended at 21 Ill. Reg. 2682, effective February 10, 1997; amended at 23 Ill. Reg. 706, effective December 30, 1998; amended at 24 Ill. Reg. 18765, effective December 8, 2000; amended at 28 Ill. Reg. 15654, effective November 19, 2004; amended at 32 Ill. Reg. 18030, effective November 7, 2008; amended at 36 Ill. Reg. 13254, effective August 1, 2012.

SUBPART A: GENERAL REGULATIONS

Section 554.101 Legal Authority

The Illinois Department of Transportation (Department) is authorized by the Illinois Vehicle Code (Code)~~Illinois Size and Weight Law~~ [625 ILCS 5/Ch. 15] to issue special permits. These special permits allow the operation of vehicles or loads that exceed the legal maximum dimensions and weights. The permits are valid only for those highways under Department jurisdiction. This Part supersedes~~554 shall supersede~~ all policies previously established and published by the Department ~~of Transportation~~ pertaining to oversize and overweight permit movements.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.102 Partial Invalidity

The provisions of this Part are severable, and if any of the provisions are~~shall be~~ held to be unlawful by any court of competent jurisdiction, the decision of the~~such~~ court shall not affect or impair any of the remaining provisions.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.103 Scope

- a) All applications for permits are given full consideration. Permits for proposed moves may be issued
 - 1) when the highways and bridges will not be unduly damaged; and
 - 2) when the safety of the traveling public will be adequately protected.

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- b) A permit may also be issued when substantial benefits will be realized by a large segment of the public and potential damage and safety problems can be resolved.
- c) This Part is the official detailed policy written to provide a uniform system for issuing oversize and overweight permits. This Part is authorized by the ~~Illinois Vehicle~~ Code and, in addition to the statutes, governs the issuance of special permits. All of the terms, conditions, and informational requirements contained in this Part constitute the Department's official policies for this permit program.
- d) Questions regarding permits or permit policies should be directed to the Illinois Department of Transportation, Bureau of Operations, Permit Office, 2300 South Dirksen Parkway, Springfield, Illinois 62764 (~~217/785-1477 or 217/782-6271~~)(~~217-782-6271 or 217-558-1428~~) or by email at: dot.permitoffice@illinois.gov~~permitoffice@dot.il.gov~~.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.104 When a Permit is Required

A permit is required from the Department when a vehicle or load that exceeds legal sizes and weights is to be moved upon or across a highway for which the State has jurisdiction is responsible. Form OPERBT 753 (see Appendix A) illustrates legal size and weight maximums. For exemptions, see Sections 554.503 and 554.603.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.105 To Whom Permits are Issued

Permits are issued to a person, firm or corporation~~Special permits are issued only in the names of those persons, firms, or corporations~~ that owns and operates~~owns and operate~~ the transporting vehicle or that operates~~operate~~ the transporting vehicle under a bona fide lease agreement (including any permittee "Doing Business As", for example, Sam Collins D/B/A Sam's Transport, and Barite LLC D/B/A Bubbles Transportation).

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.106 A Permit is a Legal Document

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- a) A permit is a legal document authorizing the permittee/grantee to move an oversize vehicle or load upon or across State highways. It is issued as a result of an agreement between the permittee/grantee and the Department of Transportation. The agreement is based upon the information contained in the application, upon the permittee/applicant being legally competent, upon the conditions and restrictions stated in the permit (which includes the provisions contained in Form OPER 993), and upon the applicable provisions of this Part policy and the Code/Illinois statutes.
- b) Acceptance of the permit by the permittee/grantee will be deemed prima facie evidence of an unequivocal allegation by the permittee/grantee that:
- 1) The permittee/He is in compliance with all operational requirements;
 - 2) All dimension and weight limitations specified in the permit will not be exceeded;
 - 3) All operation, registration, and license requirements have been met;
 - 4) All financial responsibility obligations and other legal requirements have been met; and
 - 5) The permittee/He assumes all responsibility for injury to persons or damage to public or private property, including his or her own, or to the object being transported, caused directly or indirectly by the transportation of vehicles and objects authorized under the transportation of vehicles and objects authorized under the permit. The permittee/He agrees to hold the State of Illinois harmless from all suits, claims, damages, or proceedings of any kind and to indemnify the State of Illinois for any claim it may be required to pay arising from the movement.
- c) Undertaking the move is deemed prima facie evidence of acceptance of the permit.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.107 Penalties

Penalties for violating a permit are listed in Sections 15-112, 15-113, 15-113.1, 15-113.2, 15-

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113.3, ~~and 15-301 of the Illinois Size and Weight Law~~ and Chapter 16 of the ~~Illinois Vehicle Code [625 ILCS 5/Ch. 16]~~.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.108 Insurance

Proof of financial responsibility does not need to be on file with the Permit Office as a prerequisite to obtain a routine permit.

- a) Owners and/or operators of escort vehicles or vehicles with oversize loads exceeding 10 feet in width, 13 feet 6 inches in height, 110 feet in length, or overweight must have in effect or be self-insured in the minimum amount of \$500,000 per occurrence combined bodily injury and property damage. Additional coverage may be required consistent with regulations of the United States Department of Transportation, ~~Federal Motor Carrier Safety Administration, Bureau of Motor Carrier Safety~~ and the Illinois Commerce Commission. For instance, a move made "for hire" will have to meet the insurance requirements established by the Illinois Commerce Commission.
- b) Owners and/or operators of vehicles with exceptionally large or heavy loads that require closing a highway, traveling at a slow speed on structures, or other ~~maneuvers~~ ~~maneuvers~~ unexpected by the other motorists, may be required to have higher insurance limits, based upon an estimate of potential damages. The potential damages will be calculated by preparing an engineer's estimate of the repaving of the highway or repairing, replacing or strengthening structures, utilizing current Department contract costs. When ~~such~~ insurance is required, proof of coverage must be on file with the Permit Office.
- c) In the event Department facilities are damaged directly or indirectly due to the transportation of vehicles or objects authorized under the permit, the Department shall be reimbursed based upon the repair cost rather than depreciated value.
- d) The limits of insurance coverage ~~prescribed under this Section herein stated~~ do not relieve the ~~permittee~~ ~~grantee~~ of the requirements of Section 554.106.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.110 Illinois Motor Vehicle Laws

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- a) Information concerning licensing of vehicles, financial responsibility requirements, and drivers' licenses may be obtained from the Office of the Secretary of State, Centennial Building, Springfield, Illinois 62756 ([217/785-1800, Extension 0](tel:2177851800)) or at www.cyberdriveillinois.com.
- b) Information concerning motor fuel tax permits may be obtained from the Department of Revenue, Excise Tax Section, Springfield, Illinois 62708 ([217/785-1397](tel:2177851397)) or at www.revenue.state.il.us.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.111 General IDT Registration Information

The IDT Illinois Department of Transportation (IDT, the Department) registration and classification system authorized by Section 15-319 of the Code Illinois Size and Weight Law is a voluntary registration designed:

- a) to identify vehicles making overweight moves,
- b) to provide flexibility by the use of similar vehicles when making these moves, and
- c) to facilitate highway and structure analyses, which in turn expedite the issuance of permits.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART B: TYPES OF PERMITS

Section 554.201 Permits for Single Trip Movements

- a) Permits for single trip movements are issued for one-way movement. These permits are valid for 5 working days.
- b) Unless stated otherwise on the permit, the following provisions apply to all permits granted under Subpart B of this Part:
 - 1) permit movements may be made only from one half hour before sunrise to one half hour after sunset on weekdays and from one half hour before

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sunrise to noon on Saturday unless subsection (b)(5) or (b)(6) of this Section applies;

- 2) permit movements are prohibited on Sunday unless subsection (b)(5) or (b)(6) of this Section applies;
- 3) permit movements are prohibited on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;
- 4) permit movements will not be allowed later than noon on the day preceding a holiday or a holiday weekend;
- 5) categorical permit moves (see Sections 554.504, 554.507, 554.508 and 554.604 for limitations pertaining to categorical moves) that are overweight only shall be allowed to move with no time restrictions; and
- 6) permit movements up to 12 feet wide, and/or up to 13 feet 6 inches high, and/or up to 115 feet in length that do not exceed practical maximum weights (see Section 554.604) may be made 7 days a week between Monday through Saturday from ½ one half hour before sunrise and to ½ one half hour after sunset and on Sunday from one half hour before sunrise to noon, excluding the holidays specified in subsection (b)(3).

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.202 Permits for Round Trips

- a) Permits for round trip moves may be issued provided:
 - 1) the same or "like" object is to be moved in both directions,
 - 2) the same vehicle is to be utilized, except that another vehicle bearing the same IDT Registration Class A or B may be substituted for the return trip, and
 - 3) the same route is to be traveled in the reverse direction.
- b) A description must be furnished to the Permit Office that includes two of the

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~~following three: ,including~~ make, ~~and~~ model number, serial number of the equipment being transported. ~~must be furnished to the Permit Office.~~

- c) ~~Applications for round trip moves will be the same as for a single trip move, except the words "and return" may be added. Round trip permits over a circular or roundabout route will not routinely be issued. For example, when a routing on a divided highway is adequate for the size or weight in one direction, but due to a lower clearance or a deficiency in a structure in the opposite direction, it is necessary to route the movement over different highways on the return trip. A~~ single trip permit will not be revised to include "round trip" after the permit has been issued. Round trip permits are subject to the restrictions contained in Section 554.201 except such permits are valid for a period of 10 working days and one round trip move.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.203 Permits for Repeated Moves of Like Objects

- a) Permits for repeated moves of like objects that are monolithically structured and for permanent use in their transported form may be issued provided the objects are to be moved from the same origin to the same destination, the number of trips will not be less than five, and all trips will be completed within 30 days. These permits, which are issued at a reduced fee of \$4 off per permit after the first regularly charged permit, are subject to the restrictions contained in Section 554.201.
- b) Some items that may be transported under these permits include massive precast concrete beams; cast, rolled, or extruded iron or other metal beams, girders, or fittings; and laminated timber beams.
- c) Items that may not be included are fabricated, framed, or assembled objects; ~~weldments~~; building sections; trusses; built-up girders or columns; machines; and vehicles, including house trailers or boats.
- d) Applications must contain a statement that a permit for Repeated Moves of Like Objects is requested.
- e) Consideration will be given to requests for a series of like objects varying in size and weight. However, the permits will be written for the largest of the objects.

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(For example: A series of concrete beams all the same design varying slightly in length and weight. All permits will be written for the largest size beam.)

- f) Permits for repeated moves of like objects are not intended for and will not be issued for the movement of basic material items that are to be fabricated or otherwise built up to form component parts for manufactured items (i.e., sheet steel plates), or when such objects can be transported within legal size and weight limits.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.204 Permits for Limited Continuous Operation

Permits for limited continuous operation are available ~~for the movement of oversize legal weight pieces of construction equipment, manufactured homes, modular sections, storage buildings, trusses, or other homogenous oversize items. These permits are valid~~ for a period of three months or one year, except as otherwise indicated on the permit. Movement on limited continuous operation permits is valid on the system of State highways under the jurisdiction of the Department. The permittee shall move only on State routes approved for loads that do not exceed practical maximum weights (see Section 554.604). Prior to each move, the permittee must research construction zones, posted structures, approved overweight routes, etc., from the following resources: <http://www.dot.il.gov/tpublic.html#truckers>, that lists information such as legal weights, ton structures and restrictions; www.gettingaroundillinois.com, that is an online designated truck route and overweight truck route interactive map; and the "Illinois Overweight and Overheight Permit Routes" map that is a hard copy map mailed to the permittee upon request. Information and maps available on the above-mentioned websites take precedence over the hard copy map mailed to the permittee with the permit. All movements must be made in strict compliance with this Part and Form OPER 993. The permit must be carried in the vehicle and must be available for inspection by police or Department officials. The permit may not be transferred, extended or altered. The permitted vehicle may not exceed the posted weight limit on any bridge. Following is a list of available limited continuous operation permits:
~~The following items are pertinent:~~

- a) Limited ~~continuous operation permits~~Continuous Operation Permits may be issued for the movement of oversize legal weight construction equipment or vehicles, provided:
- 1) The movement will consist of a specific vehicle, a piece of construction equipment, or a "like" load. The vehicle or load may be moved on a

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specific vehicle, under its own power, or on a tractor/semitrailer vehicle combination. A "like" load must be the same as the load described in the permit. In order to minimize trips and conserve fuel, a permittee may haul, along with the designated object or "like" load, an additional legal size object, provided it is loaded within the legal width, height, and length dimensions and the axle and gross weights are legal;

- 2) The vehicle or combination of vehicles is properly licensed if plates are required; ~~and~~
 - 3) The overall ~~dimensions do~~ width does not exceed 12 feet in width, 14 feet 6 inches in height, and 115 feet in length; and-
 - 4b) A permit may be obtained to move an oversize ~~and/or overweight~~ empty vehicle that is normally used to haul oversize and/or overweight permit loads. Such permits are needed when returning empty after having delivered an oversize or overweight piece of equipment. In order to minimize trips and conserve fuel, the permittee may, instead of returning empty, haul a legal size object with this permit, provided the axle and gross weights are legal and the object is loaded to conform to the legal width, height, and length limits.
- be) Limited ~~continuous operation permits~~ Continuous Operation Permits for the movement of manufactured homes or modular sections or oversize storage buildings may be issued, provided:
- 1) The overall dimensions do not exceed 16 feet in width, 15 feet in height, and 115 feet in length (NOTE: One civilian escort is required for loads that exceed 14 feet 6 inches in width or 14 feet 6 inches in height or 110 feet in length.) ~~The overall width does not exceed 16 feet and height of 15 feet; and~~
 - 2) ~~The overall length of manufactured home and towing vehicle does not exceed 115 feet;~~
 - 23) The ~~permittee~~ applicant is a dealer licensed by the Secretary of State of Illinois or by another state to do business as a manufactured home dealer; a hauler having an Illinois Commerce Commission permit; a hauler having an Interstate Commerce Commission permit; a manufactured home

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manufacturer; or a ~~federal~~Federal, State, or local governmental agency.

- c) Limited continuous operation permits may be issued for the movement of stackable manufactured home frames provided:
- 1) The overall dimensions do not exceed 16 feet in width, 13 feet 6 inches in height, and 115 feet in length (NOTE: One civilian escort is required for loads that exceed 14 feet 6 inches in width or 110 feet in length.);
 - 2) The permittee is a dealer licensed by the Illinois Secretary of State, or another state, to do business as a manufactured home dealer; a hauler having an Illinois Commerce Commission permit; a hauler having an Interstate Commerce Commission permit; a manufactured home manufacturer; or a federal, State, or local government agency; and
 - 3) The bottom frame is equipped with operational brakes and lights.
- d) Limited continuous operation permits~~Continuous Operation Permits~~ may be issued for highway construction, transportation, utility, and maintenance equipment owned and operated by a local governmental authority for a period of one year.
- e) Limited continuous operation permits~~Continuous Operation Permits~~ may be issued for trusses, provided the overall dimensions do not exceed 14 feet in width, 13 feet 6 inches in height, and 115 feet in length. (NOTE: One civilian escort is required for loads that exceed 110 feet in length.)~~up to 14 feet wide and 115 feet long.~~
- f) Limited continuous operation permits~~Continuous Operation Permits~~ may be issued for homogenous oversize items of any nature provided the overall dimensions do not exceed 12 feet in width, 14 feet 6 inches in height, and (nonstackable loads) 15 feet in length. (NOTE: One civilian escort is required for loads that exceed 110 feet in length.);
- g) Limited continuous operation permits may be issued for overweight loads, provided:
- 1) Weights are within the practical maximums (see Section 554.604); and

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- 2) The overall dimensions do not exceed 12 feet in width, 13 feet 6 inches in height, and 115 feet in length. (NOTE: One civilian escort is required for loads that exceed 110 feet in length.)
- h) Limited continuous operation permits may be issued for the movement of oversize/overweight vehicles and combinations from disablement sites, provided:
- 1) No single axle within a tandem exceeds 26,000 pounds;
 - 2) No 2-axle tandem exceeds 50,000 pounds;
 - 3) No 3-axle tandem exceeds 60,000 pounds;
 - 4) The overall dimensions do not exceed 10 feet in width, 13 feet 6 inches in height, and 115 feet in length (NOTE: One civilian escort is required for loads that exceed 110 feet in length.); and
 - 5) The movement is from the site of disablement to a point where the repairs actually occur.
- i) Limited continuous operation permits may be issued for the movement of oversize/overweight vehicles and combinations to derailment sites, provided:
- 1) Weights are within the practical maximums (see Section 554.604); and
 - 2) The overall dimensions do not exceed 12 feet in width, 13 feet 6 inches in height, and 110 feet in length.
- j) Limited continuous operation permits may be issued for the movement of raw milk transporters, provided:
- 1) The gross weight does not exceed 80,000 pounds and single axles do not exceed 20,000 pounds;
 - 2) Weight on tires does not exceed manufacturer's rating; and
 - 3) The permittee does not travel on Interstate Highways.

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- 1) ~~The overall width does not exceed 12 feet.~~
- 2) ~~The overall length does not exceed 115 feet.~~
- 3) ~~The overall height does not exceed 14 feet 6 inches.~~

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.206 Permits for the Movement of Overweight 2-, 3-, 4- or 5-Axle Truck and/or Truck/Tractor Loaded With Sweet Corn, Soybeans, Corn, Wheat, Milo, or Other Small Grains and Ensilage

These permits may be issued for a period not to exceed 40 days, provided:

- a) ~~The movement will be made from a field to a specified processing plant;~~
- ~~ab)~~ The movement will not exceed 5025 miles; ~~and~~
- ~~be)~~ The axle and/or tandem weights of these loads will not exceed 35% ~~percent~~ above the legal limitations for 2-axle trucks; 20% for 3- and 4-axle trucks; and 10% for 5-axle trucks. (See Section 15-301(e) of the Code.)
- c) The truck must be licensed for the proper gross weight being hauled.
- d) The total gross weight does not exceed practical maximum weights (see Section 554.604).
- e) The permittee does not travel on Interstate Highways.
- f) The moves are made between ½ hour before sunrise and ½ hour after sunset.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.210 Extension of Permits

- a) Single Trip Permits, Round Trip Permits, and Permits for Repeated Moves of Like Objects will be extended for a period of 5 working days, provided the Department is notified not later than the expiration of the original permit and good cause is shown.

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- b) Extensions will be granted upon good cause with an effective date sometime after the expiration date of the original permit if the Permit Office is notified prior to the expiration date and the time between the expiration and the effective date of the extension does not exceed 30 days.
- c) Second extensions will not ~~normally~~ be issued.
- d) The Permit Office will not issue extensions for limited continuous operation permits~~Permits for Limited Continuous Operation~~.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.211 Revision of Permits

A permit shall not be altered or revised except by the Permit Office.

- a) The Permit Office may issue revisions to permits:
 - 1) to correct errors attributed to the issuing office;
 - 2) at the request of the permittee before the move has been started:
 - A) to alter routes or destinations;
 - B) to correct or increase sizes or weights;
 - C) to substitute a vehicle used to transport a load;
 - D) to adjust weights as outlined in Section 554.608; or
 - 3) due to emergency or exceptional conditions beyond the control of or outside the normal scope of knowledge of the permittee.
- b) It is the responsibility of the permittee to ensure accuracy of the application. Only one revision per permit will be issued.~~The issuance of a second revised permit will be held to a minimum.~~
- c) Consistent with the provisions of this Section, revisions will not be issued:

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- 1) For Permits for Repeated Moves of Like Objects because applications for such moves have been given considerable advance planning;
- ~~2) For Limited Continuous Operation Permits;~~
- ~~23) To change the name of the permittee;~~
- ~~34) To change the origin or first route of the move except when entering from the same State line;~~
- ~~45) To alter the description of the load, including the make, model number and/or, ~~or~~ serial number;~~
- ~~56) To revise a permit that has been violated;~~
- ~~67) To add to scale designation (weigh station) within route; or~~
- ~~78) To change the type of permit.~~

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.212 Fraudulent Permit

A permit shall be deemed fraudulent if it is used in a manner or altered to facilitate use in a manner contrary to the ~~Code~~Illinois Size and Weight Law, contrary to this Part, contrary to the terms and conditions of the permit as issued, or to otherwise conduct an unpermitted move. A fraudulent permit is void and any move under that permit ~~thereunder~~ is considered an unpermitted move. An unpermitted move under a fraudulent permit would include, but would not be limited to:

- a) Operation of multiple movements under provision of a single trip permit.
- b) Movement of a load not as described on the presented permit.
- c) Movement with an issued permit that, without authorization from the ~~Department's~~Department of Transportation's Permit Office, has had the original specifications or restrictions altered.

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- d) Movement when the axle spacing of the hauling unit does not conform to those indicated on the permit application.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART C: ISSUANCE OF PERMITS

Section 554.301 Transmission Media

- a) For expedited service, the Department recommends the use of the Internet (www.illinoistruckpermits.com); however, permits may be applied for and issued by any of the following means:
- 1) By Internet or telephone – routine permits as shown in Sections 554.504, 554.507, 554.508, and 554.604, Single Trip Movement permits, Round Trip Movement permits, Repeated Moves of Like Objects permits, ~~Limited Continuous Operations permits~~;
 - 2) By Internet or fax – superload permits, most limited continuous operation permits;
 - 3) By mail or in person – all permits.
- b) ~~Most permits~~ Routine loads may be applied for via Internet 24 hours a day, 7 days a week. However, permits are only processed during the normal working hours of the Permit Office, with a few exceptions (see Section 554.303). All costs of transmission are borne by the ~~permittee~~ applicant.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.303 When Permits Are Issued

Most routine permits ~~Permits~~ are issued only during regular working hours, 7:00 a.m. to 4:30 p.m., ~~except as otherwise provided~~, Monday through Friday, excluding holidays. Superload permits are issued from 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Permits applied for via Internet for loads that are up to 12 feet in width, 115 feet in length, 13 feet 6 inches in height and of legal weight are generally issued 24 hours a day, 7 days a week.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

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Section 554.305 District Offices

All District Offices may issue construction equipment permits for moves within a highway construction section consistent with Section 554.207. They may also authorize movement of excessive size and weight loads under emergency conditions. The addresses of all offices are listed at www.dot.il.gov/idotmap.html shown in the Appendix.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.306 Method of Application

~~Most applications~~ Applications may be submitted in person or by mail at: Illinois Department of Transportation, Permit Office, Room ~~117017~~, 2300 South Dirksen Parkway, Springfield, Illinois 62764, or on the Internet at [www.illinoistruckpermits.com](http://permits.dot.state.il.us/submit.html) ~~http://permits.dot.state.il.us/submit.html~~. Routine permit ~~Permit~~ applications may also be made by telephoning 217/-785-1477, ~~Extension 1, outside of Illinois,~~ or 1-800/-252-8636, ~~Extension 1,~~ within Illinois. ~~Permit applications may be faxed to 217-782-3572.~~ In compliance with ~~the Code~~ Illinois Statutes, the Department has installed an automatic device for recording applications received and permits issued by telephone. ~~When applying for a permit~~ ~~In making application~~ by telephone, the Department and the applicant waive all objections to the recording of the conversation. ~~Superload permit applications may be faxed to 217/782-3572 and limited continuous operation permits may be faxed to 217/782-3573.~~ The following conditions apply to applications for various types of permits.

- a) Permits for single trip and round trip.
 - 1) ~~Application for routine permits~~ Permits may be applied for on the Internet, by telephone, ~~by mail, or by walk-in or in writing~~ by submitting Form OPER 1928 for routine permits as shown in Sections 554.504, 554.507, 554.508, and 554.604.
 - 2) ~~Superload~~ Applications for superload permits ~~may be applied for on~~ ~~the~~ shall be submitted by Internet, by fax, by mail, or by walk-in and shall be submitted on Form OPER 2270.
- b) Permits for repeated moves of like objects (minimum of five applications).
 - 1) Applications must all be submitted at one time to the Permit Office.

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- 2) The ~~permittee~~applicant may telephone the Permit Office to activate permits that were applied for without an effective date.
- c) ~~Limited continuous operation permits~~Permits for limited continuous operation may be applied for on the Internet, by fax, or in writing.
- d) Permits for the repeated moves directly across a highway or for the movement of an overweight ~~2-, 3-, 4- or 5-axle~~2-axle truck loaded with sweet corn, soybeans, corn, wheat, milo or other small grains and ensilage may be applied for by fax at 217/-782-3573 or in writing on current Department Form ~~OPER BT~~ 1163 or ~~Form OPER BT~~ 757, respectively. (See Section 15-301(e) of the Code.)

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.307 Forms to Assist in the Preparation of a Permit Application

Much of the data required on an application is specified by law. Forms are available for use as a worksheet to assist in preparing permit applications (routine permits need Form OPER 1928 and superload permits need Form OPER 2270). These forms may be obtained through the Department's Internet address <http://www.dot.il.gov/tpublic.html#truckers>~~found in Section 554.306~~ or by contacting the Permit Office at 217/-782-6271.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.309 Preliminary Application for Estimating Purposes for Proposed Moves

Frequently, company or individual decisions depend upon the availability of special permits. An applicant may submit an application for a proposed move following normal procedures but indicate that the due date of the move is unknown. The proposed move will be analyzed and the applicant informed of the feasibility of movement as of the day the route is checked. There is no charge for checking the feasibility of a move; however, if any engineering inspections or investigations are required, fees (see Section 554.910) will incur. If the move is feasible, the applicant may then submit the permit fee and the proposed date of movement. If the proposed move is not feasible, the applicant will only be billed for any engineering inspections or investigations as described in Section 554.910. Additionally, estimated superload permit fees may also be obtained at www.illinoistruckpermits.com.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

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Section 554.312 Permits for Moves Over Toll Highways

- a) Permits for oversize and overweight movements over the Illinois Toll Highway System are not issued by the Department but are required when legal dimensions or weights are exceeded. The maximum dimensions allowed on most toll roads, due to physical limitations, is 12 feet in width and 14 feet 6 inches in height. A maximum width of 10 feet, height of 14 feet 6 inches, and gross weight of 120,000 pounds is allowed on most toll roads due to physical limitations. A maximum width of 12 feet is allowed on the sections of the toll highway system that carry Interstate Route 80 and U.S. Route 51.
- b) Both oversize and overweight permits may be obtained from the Illinois State Toll Highway Authority, Downers Grove, Illinois 60515 (630/-241-6800, extension ext. 3822 or 3847). Some oversize ~~Oversize~~ and overweight permits may also be purchased at a Toll Plaza. A permit is required from the Department's Permit Office for movement on State highways leading to and from the toll road prior to purchase of a toll road permit.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.313 Permits for Moves Over Local Roads

- a) Permit applications for movement upon local streets or highways should be submitted to the local authorities having maintenance jurisdiction over the street or roadway. Section 15-301 of the Code~~Illinois Size and Weight Law~~ authorizes local authorities to issue permits under the same conditions as the Department. Within the City of Chicago, it is necessary to obtain permits from both the State (the Department) and City of Chicago, ~~it is necessary to obtain permits~~ for travel on State highways other than the expressways.
- b) The Department has no authority to issue permits for moves over streets or highways not under its control or jurisdiction. A permit issued by the Department specifically states in the general provisions that it is void on any highway other than a State maintained highway. The issuance of a permit under this Part does not excuse the permittee from complying with other existing laws that may apply to the movement.
- c) The Department will not knowingly terminate a move over a State highway at a

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local street or highway that may cause damage to the local facility. If a problem is anticipated, proof will be required from the applicant that permission from the local highway official has been obtained.

- d) The permit is not valid on any highway or bridge posted for a load limit less than the gross weight of the move, on any highway closed to traffic, and on any highway not maintained by the Department. The right to use highways other than those specified in the permit is neither implied nor granted for non-State-jurisdiction routes. The applicant must obtain permission from the proper local authority to use local streets or highways, or from the Illinois State Toll Highway Authority if traveling over the Tollway.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.314 Moves Upon Structures Located on a Local Street or Highway Spanning an Interstate or Controlled Access Highway

- a) Although structures over an Interstate highway, separating a local highway and the multilane highway, may have been built jointly by the Federal Government, State, County, or local municipality, maintenance jurisdiction of the roadway over such structures remains with the local authority.
- b) When oversize or overweight moves are required over these structures, permits must be obtained from the local authority having maintenance jurisdiction over the highway. Should the ability of a structure to carry an overweight load be unknown, the Department will assist the local authority by analyzing the structure and reporting the findings.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.315 Definition of Violation of Permit

- a) When operating under authority of an oversize/overweight permit issued by the Illinois Department of Transportation, the following list includes but is not limited to offenses that shall be considered a violation of permit but will not render the entire permit null and void:
- 1) Incorrect license number or state;

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- 2) Incorrect make, model number, description and/or serial number;
 - 3) Incorrect number of axles;
 - 4) Gross, tandem or single axle weights that are in excess of those permitted. In this case, the violator may be fined for the excess weight in addition to the violation of permit;
 - 5) Incorrect width, length, and/or height of the permit load;
 - 6) Failure to comply with the general and specific provisions and notes listed on the permit. EXCEPTION: Failure to comply with the general and specific provisions and notes pertaining to minimum axle spacing, as described on the permit application and accompanying permit, will be considered a load operating without a permit, and the permit will be deemed fraudulent in accordance with Section 554.212(d).
- b) This list is not comprehensive, but reflects the most prevalent instances of violation of permit. Under a violation of permit, the permittee must either bring the permit load into conformance with the conditions of the permit or purchase a new permit before continuing.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART D: GENERAL CONDITIONS AND PROVISIONS

Section 554.402 Short Form Permits

- a) Permits issued in writing or by fax have been shortened to reduce the cost of the messages. Applicable conditions and restrictions are indicated by code number and letter ~~and number~~ and are contained in Form OPER 993. A copy of Form OPER 993 must accompany the permit or the permittee is subject to arrest in accordance with Section 15-301(j) of the Code Illinois Size and Weight Law.
- b) Self issued routine permits Permits issued by telephone shall be written in ink or typed by the applicant or permittee on Form OPER 1928. The applicant or permittee must complete the applicable portions of this form as directed by the Permit Office prior to starting the move. The record of the permit as maintained by the Permit Office shall be presumed correct in any questions or dispute. Form

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~~OPER 993 contains general provisions that apply to these permits. These forms contain general provisions on the reverse side. The permittee need not have a Form OPER 993 in his possession when obtaining a permit by telephone and using the Form OPER 1928.~~ The Permit Office may require that a copy of the form completed by the applicant or permittee for any permit issued by telephone be submitted to the Permit Office to verify that the information has been correctly recorded. It is anticipated this will only be done on forms the Department has reason to believe have been inaccurately completed or if the company is suspected of abusing the self issue permit system. If a company has abused the system by, for example, attempting to use the same permit for more than one move or knowingly completing the form inaccurately, the company will not be allowed to obtain permits by telephone.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.403 Form OPER 993

- a) Form OPER 993 contains provisions, restrictions, and conditions that may apply to an oversize or overweight move. These forms are available from the Permit Office, online at www.illinoistruckpermits.com, at State Police District Headquarters, weigh stations, and some truck stops, and must accompany all short form written permits. A form may be capsulated or placed in a plastic binding for use with subsequent permits.
- b) The conditions and restrictions will be referred to as "provisions" in the permit. In case of conflict, the order of priority shall be
 - 1) conditions stated in permit,
 - 2) special provisions (referred to by code letter "C" and number) then
 - 3) general provisions (referred to by code letters "A" or "B").

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.407 When Escort Vehicles Are Required

- a) One civilian escort vehicle is required:

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- 1) For all moves that exceed 14 feet 6 inches in width;
 - 2) For all moves that exceed 110 feet in length;
 - 3) For all moves that exceed 14 feet 6 inches in height;
 - 4) For any move either across, upon, or along a highway when additional warning is required to alert the traveling public. For instance, if a movement is required to travel during darkness or on a weekend to respond to an emergency situation, a civilian escort will be required.
- b) Two civilian escort vehicles are required:
- 1) For all moves that exceed 18 feet in height;
 - 2) For all moves that exceed both 14 feet 6 inches in width and 14 feet 6 inches in height;
 - 3) For all moves that exceed both 14 feet 6 inches in height and 110 feet in length;
 - 4) For all moves that exceed both 14 feet 6 inches in width and 110 feet in length.
- c) Three civilian escorts are required:
- 1) For all moves that exceed 16 feet in width;
 - 2) For all moves that exceed 145 feet in length;
 - 3) For all towed special haul rigs more than 150 feet in length.
- d) Illinois State Police Escorts
- 1) Illinois State Police escorts are required:
 - A) For moves greater than 18 feet in widthwide;
 - B) For moves of greater than 200 feet in length;

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- C) For moves over 18 feet in height~~high~~;
 - D) For overweight moves where bridge restrictions require that all traffic be kept off of a structure while the permitted vehicle crosses;
 - ~~E) For overweight moves of 230,000 pounds or more; or~~
 - EF) For any move of an unusual nature where additional traffic control is necessary to alert the motoring public to the permit movement.
 - F) When deemed necessary by the Department's Bridge Office's analysis.
- 2) Moves requiring Illinois State Police escorts will normally be made partially or entirely outside a municipality. The permittee must make all arrangements with ~~the designated~~ State Police Headquarters by calling 217/782-6527 at least 24 hours prior to the move. The Permit Office may determine a State Police escort is not necessary in some instances including but not limited to the following:
- A) on moves made within a municipality if local police are utilized as specified in Section 554.407(d);
 - B) on movements where the object will only cross a State highway and minimal disruption of traffic is anticipated; or
 - C) on moves over 18 feet high if a field investigation reveals there are not any overhead obstructions.
- e) Local police escorts may be required in lieu of State Police escorts when the move is made entirely within the limits of a city or county. It is the responsibility of the permittee to make all arrangements with the local police when the permit specifies such an escort as a condition of the permit.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.412 Axle Suspension for Legal Weight Moves

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~~There~~These are no minimum axle suspension requirements for legal weight permit moves since a suspension system is not included in the legal definition of a tandem axle. However, all axle and axle group weights must remain within the legal limits as shown in Table 1 of Form OPERBT 753.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.413 Axle Suspension for Overweight Moves

- a) Truck-tractor ~~with a three-axle~~ drive tandem:
The suspension system on the drive tandem must be designed to distribute a relatively equal amount of weight to each axle at various loadings. A maximum differential of 2000 pounds between the heaviest and lightest axle is allowed for axles that exceed 20,000 pounds. (See Section 15-111 of the Code.)
- b) Semitrailers with ~~three~~ four or more axles:
The suspension system must be designed to distribute a relatively equal amount of weight to each axle at various loadings. A maximum differential of 3000 pounds between the heaviest and lightest axles in a group is allowed.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.414 Buildings

- a) Buildings may be mounted on house moving dollies equipped with pneumatic tires and towed by a truck or truck tractor when moved up to 10 miles or they may be loaded on a truck, semitrailer, or trailer. When moved on house moving dollies, the dollies and tires shall be in good condition and a sufficient number shall be used to carry the weight of the building. The truck or truck tractor also shall be in good condition and have the capacity and power to control the movement of the building.
- b) Permits will not be issued to allow the movement of buildings along or across the highways when mounted on skids because of possible damage to roadway surfaces.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

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Section 554.416 Double-Bottom Units

Legal weight double-bottom units 60 feet in length may operate on any Illinois highway. These combinations are allowed longer lengths on Interstate highways and other routes designated by the Department. The legal length requirements are outlined on Form OPER BT-753. A map of the designated routes is available from the Permit Office. Permits will not be issued for the operation of empty or loaded double-bottom units exceeding these limitations.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.420 General Speed Limits for Permit Movements

- a) Unless otherwise stated in the permit, the maximum speed for vehicles being operated in rural areas under permit authority is ~~45 miles per hour or~~ 5 miles per hour under the maximum above the minimum posted speed limit. Legal weight, legal height movements up to 10 feet in width are allowed to travel at the legal maximum speed limit.
- b) The speed limit stated in the permit is one of the conditions upon which the permit has been issued, and it takes precedence over any maximum speed limit that may be posted on any highway. Violation of the speed limit contained in the permit will render the driver subject to arrest.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.422 When Moves May be Made

- a) Overdimension permit loads with dimensions equal to or less than 12 feet in width, 13 feet 6 inches in height, 115 feet in length that do not exceed practical maximum weights (see Section 554.604) are authorized to move between ½ hour before sunrise and ½ hour after sunset, 7 days a week. Overdimension permit loads with dimensions greater than 12 feet in width, 13 feet 6 inches in height, 115 feet in length are authorized between ½ hour before sunrise and ½ hour after sunset, Monday through Friday, and from ½ hour before sunrise until noon, Saturday (unless specified otherwise on the provision sheet or permit). Overweight permit loads with legal dimensions are allowed 24 hour a day, 7 days a week movement. Permit movements on most State highways are limited to travel from a half hour before sunrise to a half hour after sunset, Monday through Friday, and from a half hour before sunrise until noon on Saturday except as

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follows:

- 1) Movements are restricted on specified holidays, beginning at noon the day preceding the holiday or the holiday weekend. The specified holidays are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
 - 2) Movement shall not be made when the highway is covered with snow or ice or when visibility is unduly impaired by rain, snow, fog, smog or at anytime travel conditions are considered to be unsafe by the Illinois Department of State Police. Movements of house trailers over 12 feet wide is prohibited when wind gusts exceed 25 miles per hour.
 - 3) Emergency and other special movements may be authorized for travel at any time if the need is justified. Other special movements may include those that would be better accommodated during hours when it would be less disruptive to other traffic and movements that are of critical importance to industry due to the tight time constraints. For example, repairs to the expressway system in Cook County are often done at night and on weekends. If equipment is required to do the work and there is no storage at the site, a permit may be issued authorizing travel to and from the jobsite during the hours of construction.
 - 4) Movements exceeding the practical maximum size and weight limits may be restricted to a specified day and time. (See also Section 554.310(e) regarding violations.)
 - 5) Movements exceeding 14 feet 6 inches in width and those movements that are to be accompanied by State Police or Department personnel are generally restricted to travel on days when the Permit Office is open.
 - ~~6) Overweight permit loads with legal dimensions are allowed 24 hours a day, seven days a week movement.~~
- b) Permit movements on State jurisdiction roads in Cook County are subject to the following additional restrictions.
- 1) Movement of loads exceeding practical maximum weights (see Section 554.604), 12 feet in width or 13 feet 6 inches in height are prohibited on

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the expressways in Cook County; except Interstate 55 north of exit 277, Interstate 57 south of US 6 (159th St.), and Interstate 290 north of toll road Interstate 294. Movements exceeding 10 feet in width, 13 feet 6 inches in height, and 88,000 pounds gross weight are prohibited on the expressways in Cook County, except Interstate Route 80, Interstate Route 57 from U.S. Route 6 (159th Street) south, Illinois Route 394 from Interstate Route 80 south, Interstate Route 290 north of St. Charles Road, and Illinois Route 53.

- 2) Travel times on State routes excluding those prohibited in subsection (b)(1) are as follows: Overdimension permit loads with dimensions equal to or less than 12 feet in width, 13 feet 6 inches in height, 115 feet **in length** that do not exceed practical maximum weights (see Section 554.604) are authorized to move between ½ hour before sunrise and ½ hour after sunset, 7 days a week. Overdimension permit loads with dimensions greater than 12 feet in width, 13 feet 6 inches in height, 115 feet **in length** are authorized to move between ½ hour before sunrise and ½ hour after sunset, Monday through Friday, and from ½ hour before sunrise until noon, Saturday (unless specified otherwise on the provision sheet or permit). Overweight permit loads with legal dimensions are allowed 24 hour a day, seven days a week movement. Movements are further restricted on specific holidays and holiday weekends (see <http://www.dot.il.gov/tpublic.html#truckers> for details). Within the area bounded by 95th Street, Illinois Route 50 (Cicero Avenue), Roosevelt Road, Central Avenue, Touhy Avenue, and Lake Michigan that is in the City of Chicago, and on expressways in Cook County north of Interstate Route 80 and east of Illinois Route 83, permit movements not exceeding 10 feet in width are authorized between the hours of 9:30 a.m. and 3:00 p.m. (until noon on Saturday). Movements exceeding 10 feet but less than 12 feet in width are authorized only between the hours of 7:00 p.m. and 6:00 a.m. Moves 12 feet or more in width must be made between midnight and 6:00 a.m. Movements exceeding 10 feet in width and having an origin or destination within this area may travel during hours of darkness in Cook County for a distance of up to 10 miles outside the nearest boundary of this area.
- 3) All permit related questions concerning roads under Cook County jurisdiction, excluding routes within the City of Chicago, should be directed to the Cook County Permit Office at 312/603-1670. Movements

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~~over 12 feet in width within Cook County that are not subject to the restrictions in subsection (b)(2) are authorized only between the hours of 9:30 a.m. and 3:00 p.m. (until noon on Saturday).~~

- 4) ~~Contact should be made with the City of Chicago (312/744-4696) regarding permit requirements for movements on all streets and highways within the city other than the expressways.~~
- c) Permit movements on State jurisdiction roads in City of Chicago are subject to the following additional restrictions:
 - 1) Travel times on State routes in the City of Chicago are as follows: Overdimension permit loads with dimensions equal to or less than 12 feet **in width**, 13 feet 6 inches **in height**, 115 feet **in length** that do not exceed practical maximum weights (see Section 554.604) are authorized to move between ½ hour before sunrise and ½ hour after sunset, 7 days a week. Overdimension permit loads with dimensions greater than 12 feet **in width**, 13 feet 6 inches **in height**, 115 feet **in length** are authorized between ½ hour before sunrise and ½ hour after sunset, Monday through Friday, and from ½ hour before sunrise until noon, Saturday (unless specified otherwise on the provision sheet or permit). Overweight permit loads with legal dimensions are allowed 24 hours a day, 7 days a week movement. Movements are further restricted on specific holidays and holiday weekends (see <http://www.dot.il.gov/tpublic.html#truckers> for details).
 - 2) For permits and travel time restrictions on all routes under the City of Chicago's jurisdiction, including roads within the Central Business District from Cermak Rd. (2200 S) to the south, Division St. (1200 N) to the north, Halsted St. (800 W) to the West and Lake Michigan to the east, contact the City of Chicago at 312/744-4696.
 - 3) All permit related questions concerning roads under the City of Chicago's jurisdiction should be directed to the City of Chicago Permit Office at 312/744-4696.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.423 Moves Over Posted Load Roads and Bridges

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No permit load shall move over ~~a bridge posted at less than the permitted weight or less than legal weight~~ across a load limit road or bridge unless the gross weight of the permit movement is not more than the posted limit. If ~~the~~ permittee finds that the proposed move exceeds the posted load limit on a route listed in the permit, contact should be made with the issuing office ~~to obtain a revised route around the posted load limit~~ before proceeding.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.424 Time Limits

Due to high traffic volumes in certain areas of the State, or unusual roadway, weather, or other conditions, the time during which ~~some superload~~ a permit ~~loads load~~ can move may be specified. This time is usually 9:00 a.m. to 3:00 p.m. but other restrictions may be indicated.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.425 Deviation from Authorized Routes

- a) Permit movements must be made over the routes listed in the permit. If the permittee is traveling on State maintained routes other than those specified in the permit, the permittee is subject to arrest in accordance with Section 15-301(j) of ~~the Code. The Illinois Size and Weight Law. Regardless of the reason for being off route, the arresting officer should not allow the movement to proceed until the Department has had an opportunity to determine whether any damages have resulted from travel on unauthorized routes and until the Department provides a new routing to return the driver to the routing authorized in the permit.~~
- b) If a routing is not prescribed, the permittee is expected to follow a direct route on State maintained highways between the specified origin and destination. ~~However, drivers are authorized to deviate from the assigned route in observance of construction restrictions and/or official signs directing trucks to a weigh station.~~
- c) Upon instructions from a police officer, the ~~permittee driver~~ may also be directed off of the assigned route to a scale. When the permittee is found to be within the size and weight limits of his/~~her~~ permit, it is the responsibility of the police officer to assist the ~~permittee driver~~ in returning to the prescribed route. ~~If the officer is unsure of the capacity of any portion of the State routes between the point where the load is stopped and the scale, the officer may contact the Permit Office for routing assistance.~~

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- d) A permitted load operating on an unauthorized State-maintained highway is prohibited from further movement until the Department provides a new route to return the permittee to the routing authorized in the permit.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.426 Permit Must be Carried with the Move

Section 15-301(f) of the Code ~~The Illinois Size and Weight Law~~ requires that the permit be carried in the vehicle or combination of vehicles to which it refers and that the permit be presented upon request to any police officer or authorized agent of the Department.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.429 Legal Height Movements

Permit authority is not required for the movement of a vehicle ~~vehicle(s)~~, inclusive of load, not exceeding the legal height limitation of 13 feet 6 inches as established in the Code ~~Illinois Size and Weight Law~~. Therefore, no action is taken by the Department, either separately or in conjunction with authorizing an otherwise oversize or overweight movement, to ensure adequate clearance of structures for a vehicle ~~vehicle(s)~~, inclusive of load, if the applicant or permittee has indicated the overall height is legal.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART E: OVERSIZE VEHICLES AND LOADS

Section 554.501 Scope

- a) Permits may be issued for overdimension objects and vehicles if they have been reasonably disassembled. Objects must be loaded within legal dimensions, if at all possible. Multiple objects, loaded side-by-side, end-to-end, or on top of each other, may not cause the overdimension. However, more than one overdimension object may be transported if it does not result in another dimension that exceeds legal limits.
- b) Permits to move empty overdimension trailers ~~vehicles~~ may be obtained, but these trailers ~~vehicles~~ may not normally be used to transport legal size loads.

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Consideration will be given to the movement of a legal size object requiring a special carriage that results in an oversize vehicle. An overdimension trailer ~~vehicle~~ may be used to transport an overdimension object.

- c) Permits will not be issued for empty or loaded double-bottom units that exceed legal maximum size or weights.
- d) Nondivisible load or vehicles.
 - 1) Permit loads are deemed to be reasonably dismantled (nondivisible) if, when separated into smaller loads or vehicles, further dismantling would:
 - A) Compromise the intended use of the load or vehicle; that is, make it unable to perform the function for which it was intended;
 - B) Destroy the value of the load or vehicle; that is, make it unusable for its intended purpose; or
 - C) Require more than 8 work hours to dismantle using appropriate equipment. The permittee applicant for a nondivisible load has the burden of proof as to the number of workhours required to dismantle the load.
 - 2) The Department may treat emergency response vehicles, casks designed and used for the transport of spent nuclear materials, and military vehicles transporting marked military equipment or material as nondivisible vehicles or loads (see 23 CFR 658.5, April 1, 2006).
- e) Due to variations in lengths of vehicles, inclines, curve radii, and other road conditions and factors, the Department does not guarantee and the permittee cannot assume the posted height or width is adequate for the movement. It is also the sole responsibility of the permittee, when not in conformance with Section 11-1203(a) of the Code, to inspect all railroad grade crossings for clearance along the permitted route prior to a move. The permittee assumes sole liability should the posted height or width or railroad grade crossing clearances prove inadequate. The Department may require indemnification from the permittee for any and all damages or claims incurred from inadequate clearance.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

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Section 554.502 Legal Dimensions

Form ~~OPER BT-753~~ illustrates legal dimensions. Also see Sections 15-101, 15-102, 15-103, and 15-107 of ~~the Code~~ The Illinois Size and Weight Law.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.503 Exceptions to Legal Limitations

- a) *The provisions of this Part governing size, weight and load do not apply to fire apparatus or equipment for snow and ice removal operations owned or operated by any governmental body, or to implements of husbandry, as defined in Section 1-130 of the Code, temporarily operated or towed in a combination upon a highway provided such combination does not consist of more than 3 vehicles or, in the case of hauling fresh, perishable fruits or vegetables from farm to the point of first processing, not more than 3 wagons being towed by an implement of husbandry, or to a vehicle operated under the terms of a special permit issued under this Part. (Section 15-101(b) of the Code)* ~~*Fire apparatus, equipment for snow and ice removal operations owned or operated by any governmental body, implements of husbandry temporarily operated or towed in a combination upon a highway, provided such combination does not consist of more than three vehicles or, in the case of hauling fresh perishable fruits or vegetables from farm to the point of first processing, not more than three wagons being towed by an implement of husbandry, are exempt from size, weight, and load limitations [625 ILCS 5/15-101(b)].*~~
- b) *Length limitations in Section 15-107(a) through (f) of the Code do not apply to the following:*
- 1) *Vehicles operated in the daytime, except on Saturdays, Sundays, or legal holidays, when transporting poles, pipe, machinery, or other objects of a structural nature that cannot readily be dismembered, provided the overall length of vehicle and load may not exceed 100 feet and no object exceeding 80 feet in length may be transported unless a permit has been obtained as authorized in Section 15-301 of the Code. (Section 15-107(g)(1) of the Code)*
 - 2) *Vehicles and loads operated by a public utility while en route to make*

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emergency repairs to public service facilities or properties, but during night operation every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load. (Section 15-107(g)(2) of the Code) Length limitations do not apply to vehicles operated in the daytime when transporting poles, pipe, machinery, or other objects of a structural nature 80 feet or less in length, except upon Saturdays, Sundays, or legal holidays; nor do length limitations apply to utility companies when objects are required for emergency repairs [625 ILCS 5/15-107(g)].

- c) The following vehicles may exceed the 8 feet 6 inches (width) limitation during the period **between** ½ hour before sunrise **and** ½ hour after sunset:
- 1) Loads of hay, straw or other similar farm products provided that the load is not more than 12 feet wide. (Section 15-102(b)(1) of the Code)
 - 2) Implements of husbandry being transported on another vehicle and the transporting vehicle while loaded. (Section 15-102(b)(2) of the Code) Note, however, the requirements of Sections 554.313, 554.407, 554.413, 554.417, 554.419 and 554.503 continue to apply to a move under this subsection (c)(2). See Form OPER 2279.
 - 3) Portable buildings designed and used for agricultural and livestock raising operations that are not more than 14 feet wide and with not more than a 1 foot overhang along the left side of the hauling vehicle. However, the buildings shall not be transported more than 10 miles and not on any route that is part of the National System of Interstate and Defense Highways. All buildings when being transported shall display at least 2 red cloth flags, not less than 12 inches square, mounted as high as practicable on the left and right side of the building. A State Police escort shall be required if it is necessary for this load to use part of the left lane when crossing any 2 lane State highway bridge. (Section 15-102(b)(3) of the Code) ~~Width limitations do not apply to loads of hay, straw, other similar products, of implements of husbandry being transported between sunrise and sunset [625 ILCS 5/15-102(b)(1)]; nor do they apply to portable buildings not more than 14 feet wide with not more than 1 foot overhang along the left side of the hauling vehicle, designed and used for agricultural and livestock raising operations, which are being transported~~

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not more than 10 miles on any route not part of the National System of Interstate and Defense Highways during the period from sunrise to sunset and on which are mounted at least two red cloth flags at least 12 inches square, provided that a State Police trooper shall escort the hauling vehicle when it is using any part of the left lane when crossing a two-lane bridge [625 ILCS 5/15-102(b)(3)].

- d) Persons, teams, motor vehicles, and other equipment, while actually engaged in work upon the surface of the highway, also are exempt, but legal limitations do apply to such persons and vehicles when traveling to or from such work ~~[625 ILCS 5/11-205(f)]~~. (See Section 11-205(f) of the Code.)
- e) Often a question arises as to whether a piece of equipment is exempted or whether a permit must be obtained for its movement. A guide is found in an Attorney General's Opinion, dated November 15, 1949, concerning an overwidth bulldozer used occasionally for farm conservation work. The opinion reads in part:

"It would seem that the bulldozer is used chiefly for a commercial operation and in view of such use would probably not be within the exemption. There are many items which could be used for commercial purposes in aid of a farming operation or to conserve the soil, but of course, all such items do not fall within the exemption of the statute. The character of their use must necessarily be a determining factor."

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.504 Overwidth up to 14 Feet 6 Inches Wide

- a) Permits may be issued for widths up to the practical maximum of 14 feet 6 inches, except for toll highways and certain expressways in the Chicago area.
- b) Movement of loads exceeding practical maximum weights (see Section 554.604), 12 feet in width or 13 feet 6 inches in height are prohibited on the expressways in Cook County; except Interstate 55 north of Exit 277, Interstate 57 south of US 6 (159th St.), and Interstate 290 north of toll road Interstate 294. The maximum width for which permits may be obtained is 10 feet on controlled access highways in Cook County, except Interstate Route 80, Interstate Route 57 from U.S. Route 6 (159th Street) south, Illinois Route 394 from Interstate Route 80 south and Interstate Route 290, north of Interstate 294 and Illinois Route 53.

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- c) Separate permits must be obtained from the Illinois State Toll Highway Authority (630/-241-6800, Extension 3822 or 3847) for travel on Illinois toll roadshighways. The maximum height permitted on the toll roads is 14 feet 6 inches, the maximum width permitted on these toll roads highways is 10 feet, except a width of 12 feet is allowed on the sections of the tollroad system that carry Interstate Route 80 and USU.S. Route 51.
- d) Loads exceeding 14 feet 6 inches in width will generally be routed over multilane highways whenever possible even though additional travel distance may result. An alternate routing could be approved if, for example, the traffic volumes on the proposed two-lane routing were low and the highway geometrics were sufficient to allow the unit to move without disrupting traffic flow.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.505 Width Exceeding 14 Feet 6 Inches

- a) In the interest of safety, the movement of vehicles or objects exceeding this width is restricted. Construction activity or other highway conditions may result in lengthy delays in the issuance of a permit or may preclude issuance altogether.
- b) Movement of vehicles or objects exceeding 18 feet wide will generally only be authorized on Interstate and other multilane controlled access highways. All the movements on these highways must be able to maintain any minimum posted speeds, except at locations where the permit requires reduced speeds.
- c) Permits may be issued to move a vehicle or load over 14 feet 6 inches in widthwide, provided:
- 1) Roadway data maintained by the Permit Office disclosed that the movement can be made without seriously jeopardizing other traffic or highway facilities. If these data are inadequate, a District field investigation shall be conducted.
 - 2) The movement will not delay emergency vehicles that may need to travel on the proposed routing.
 - 3) The move is not one of many to be made in the course of regular

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operations.

- d) Movements shall be confined to a single traffic lane and shall be made in such a manner that the rest of the roadway will be open at all times so the flow of other traffic will not unnecessarily be obstructed. Whenever the width of the object or the roadway conditions require the use of more than a single traffic lane, other traffic will be given the right-of-way over this movement. The driver shall remove the vehicle from the roadway when necessary to allow an accumulation of traffic to pass or when so directed by a police officer.
- e) Moves of vehicles or objects over 16 feet ~~in widthwide~~ require ~~a District an~~ engineering investigation. ~~A District field~~ investigation will not be required, for each of several identical moves, provided they are all completed within 30 days of the initial investigation. ~~If a District field~~ investigation is required and the ~~permittee applicant~~ does not request issuance of the permit again within 3 weeks after the effective date on the original permit, 30 days after he is notified the movement is feasible, it will be necessary that the Permit Office will resubmit verify the requested movement to all of the Districts for reconsideration is still acceptable with the District Office.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.508 Overheight

- a) The maximum overheight for which a permit may be issued is governed by overhead clearances provided to the Permit Office by each District. The height of the move should be measured from the uppermost point of the object, after it is loaded, to the ground. The practical maximum height is 15 feet.
- b) The maximum height authorized on Chicago area controlled access highways is 13 feet 6 inches.
- c) On all highways, a 3-inch clearance generally is specified to allow for bounce. Overheight movements that are extremely long may require additional clearance at underpasses where the approach pavement dips abruptly at the structure.
- d) The Permit Office does not check the vertical clearance of a route when the applicant indicates the height of the vehicle and load is "legal". If the applicant indicates the height is 13 feet 6 inches, which is the legal height, no additional

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clearance is provided when the vertical clearance of the route is checked.

- e) For movements at 16 feet or greater in height, the applicant shall perform a route survey, listing all overhead obstructions, to ensure the clearances will enable the object to pass under without difficulty. The surveyed route must clear all structures by three inches. The measurements of all structures are listed by the Department at <http://www.dot.il.gov/public.html#truckers> or on the online truck permit routes or map at www.gettingaroundillinois.com. In addition, all routes must be clear of any legal weight structures, ton structures and temporary and permanent restrictions that may apply to the load.
- f) For movements at 17 feet in height, or greater, it is the responsibility of the applicant to contact all companies with overhead utility facilities and to indicate on the application the company, name of person contacted and telephone number. A District ~~An engineering~~ investigation, consisting of a route survey by District personnel, will be required.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.509 Maximum Size Manufactured Home, Modular Home, or Oversize Storage Building

The maximum size manufactured home, modular home section, or oversize storage building combination that may be moved in Illinois is 16 feet in width ~~0 inches wide~~ and 115 feet in length ~~long~~. This includes the towing vehicle. (See Section 625 ILCS 5/15-304 of the Code.) Movements under authority of a limited continuous operation permit ~~Limited Continuous Operation Permit~~ shall be restricted to a maximum height of 15 feet.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.510 Manufactured ~~Mobile~~ Home Frames

Permits for overdimension manufactured ~~mobile~~ home frames loaded on regular or lowboy semitrailers or on specially designed vehicles that are normally accepted as semitrailers and are normally licensed as semitrailers may be issued. A permit may be issued to tow one manufactured ~~mobile~~ home frame. The Department issues stackable manufactured home frame limited continuous operation permits. ~~A permit will not be issued for one or more frames loaded on another mobile home frame or on a frame and wheel assembly.~~

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(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.511 Buildings

The movement of buildings is similar to other overdimension moves. This Section ~~The section~~ provides additional information that pertains to building moves.

- a) The size of a building that may be moved is generally contingent upon the physical limitation of the highway upon which the building is to be moved and the effect of the move upon the flow of traffic. Porches or protruding sections generally must be removed to reduce the building to acceptable proportions. Loose boards, bricks, etc., must also be removed for safety reasons.
- b) If, in connection with a permitted building move, work must be done on a State highway, such as tree trimming or removal and replacement of signs, signals or guardrails, written permission must be obtained from the District involved.
- c) Removal or raising of overhead wires and cables is the responsibility of the permittee. Necessary arrangements must be made with utility companies.
- d) Routes upon which a building may be moved are as follows:
 - 1) Generally, buildings may be moved on or across low traffic volume routes that have sufficient vertical and horizontal clearances.
 - 2) Movements of large buildings on or along high traffic volume routes will not be approved. These routes include major arterial routes near a central business district and multi-lane access-controlled highways.
 - 3) Applications will not be approved for movements on or across Interstate or other multi-lane fully access-controlled highways.
- e) In addition to the general provisions applicable to overdimension or overweight movements, one or more of the following special provisions may apply to the movements of buildings:
 - 1) If it is anticipated that the movement of the building will be delayed by any utility line adjustments or tree trimming, the Department will require this work to be performed prior to beginning the move. The permittee

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must verify with the Department's District Offices at the time of the move that all required work has been completed.

- 2) Any traffic signals or signs that must be removed for vertical or lateral clearance shall be removed immediately prior to and replaced immediately after the building passes the signs or signal installation.
 - 3) When a detour for other traffic is necessary, the permittee shall ascertain that an approved detour has been established, that detour signs and barricades are erected and removed, when required, and that all signs and barricades conform with standards contained in the current Illinois Manual on Uniform Traffic Control Devices for Streets and Highways. In planning a detour route, consideration shall be given to the handling of emergency service vehicles.
 - 4) The permittee shall present a barricade plan for all affected streets. This plan must be approved before the move starts. The permittee is also responsible for ensuring that movement of emergency vehicles can be accommodated at all times.
 - 5) Movement is authorized only when the shoulders are dry and firm, frozen, or have sufficient bearing capacity to support loads imposed by the weight of the building passing traffic.
 - 6) If bridges are to be crossed during the movement, it is necessary that the weight of large buildings be provided to allow completion of a bridge analysis. The Permit Office may require verification of the weight prior to issuance of the permit.
 - 7) Additional insurance or security may be required in accordance with Section 554.108 or 554.905.
- f) Requirements governing permits for the movement of manufactured homes or building sections fall within two categories. The category depends on the type of vehicle on which the module is transported. The categories are: movement as a house trailer and movement as a building.
- 1) Building sections or manufactured homes moved under manufactured home requirements are those transported on a frame and wheel assembly,

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on a trailer, or on a vehicle closely resembling a manufactured home frame. Manufactured home sections must be specifically identified on the application, the permit and during the move. Movement is made under the same restrictions, conditions and provisions as a house trailer move, as prescribed in Section 554.509, and may not exceed 16 feet in width and 115 feet in length. Movements under the authority of a limited continuous operation permit are restricted to a maximum 15 feet in height.

- 2) Building sections or manufactured homes moved under building requirements are those transported on a regular lowboy semitrailer with a fifth wheel connection and with the axles near the rear of the semitrailer. A specially designed vehicle may also be used if it is normally considered as a semitrailer, with the axles near the rear, and it is normally licensed as a semitrailer.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.512 Size of Building that may be Moved (Repealed)

~~The size of building that may be moved generally is contingent upon the physical limitation of the highway over which the building is to be moved and the effect of the move upon the flow of traffic. Porches or protruding sections generally must be removed to reduce the building to acceptable proportions. Loose boards, bricks, etc., must also be removed for safety.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.513 Distances Buildings May be Moved (Repealed)

~~Buildings may be moved the same distances as other overdimension moves as outlined in Section 554.505.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.514 When Work is Required on Highway (Repealed)

~~If, in connection with a permit move, work must be done on a State highway, such as tree trimming or removal and replacement of signs, signals, or guardrail, written permission must be obtained from the Highway District involved.~~

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(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.515 Overhead Clearances (Repealed)

~~Removal or raising of overhead wires and cables is the responsibility of the building mover. Necessary arrangements must be made with the utility companies.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.516 Routes upon Which Buildings may be Moved (Repealed)

- a) ~~Generally, buildings may be moved on or across low traffic volume routes that have sufficient vertical and horizontal clearances.~~
- b) ~~Movements of large buildings on or along high traffic volume routes will not be considered favorably. These routes include major arterial routes near a central business district and multilane access controlled highways.~~
- e) ~~Applications will not be approved for movements on or across Interstate or other multilane full access controlled highways.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.517 Conditions Applicable to Building Moves (Repealed)

~~In addition to the general provisions applicable to overdimension or overweight movements, one or more of the following special provisions may apply to the movements of buildings:~~

- a) ~~If it is anticipated the movement of the building will be delayed by any utility line adjustments or tree trimming, the Department will require this work to be performed prior to beginning the move.~~
- b) ~~Any traffic signals or signs that must be removed for vertical or lateral clearance shall be removed immediately prior to and replaced immediately after the building passes the signs or signal installation.~~
- e) ~~When a detour for other traffic is necessary, the permittee shall ascertain that an approved detour has been established, that detour signs and barricades are erected and removed when required, and that all signs and barricades conform with~~

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~~standards contained in the current State of Illinois Manual on Uniform Traffic Control Devices for Streets and Highways to be codified as (92 Ill. Adm. Code 546). In planning a detour route, consideration shall be given to the handling of emergency service vehicles.~~

- ~~d) The permittee shall present a barricade plan for all affected streets. This plan must be approved before start of the move. The permittee is also responsible for ensuring that movement of emergency vehicles can be accommodated at all times.~~
- ~~e) Movement is authorized only when the shoulders are dry and firm, frozen, or have sufficient bearing capacity to support loads imposed by the weight of the building passing traffic.~~
- ~~f) If bridges are to be crossed during the movement, it is necessary that the weight of large buildings be provided to allow completion of a structural analysis. The Permit Office may require verification of the weight prior to issuance of the permit. The Permit Office will require verification of the weight of the building prior to the issuance of the permit if the declared weight is close to the structural capacity of any bridge being crossed or if it is not consistent with the weight of previous buildings of similar type and dimensions and the routing includes crossing structures.~~
- ~~g) Additional insurance or security may be required in accordance with Sections 554.108 or 554.905.~~
- ~~h) Moves will not normally be allowed when the Permit Office is closed or on the day preceeding a holiday or holiday weekend. However, in some parts of the State, Sunday mornings are the best times to move certain objects, such as buildings, due to the lower traffic volumes.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.518 Building Sections (Repealed)

- ~~a) Regulations governing permits for the movement of prefabricated house or building sections fall within two categories. The governing category depends on the type of vehicle on which the module is transported. The governing categories are movement as a house trailer and movement as a building.~~

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- b) ~~Building sections moved under manufactured home regulations are those transported on a frame and wheel assembly, on a trailer, or on a vehicle closely resembling a manufactured home frame. The section must be specifically identified. The movement is made under the same restrictions, conditions, and provisions as a house trailer move and may not exceed 16 feet 0 inches wide and 115 feet combination length. Movements under the authority of a Limited Continuous Operation Permit shall be restricted to a maximum height of 15 feet.~~
- e) ~~Building sections moved under building regulations are those transported on a regular lowboy semitrailer with a fifth wheel connection and with the axles near the rear of the semitrailer. A specially designed vehicle may also be used if it is normally considered as a semitrailer, with the axles near the rear, and it is normally licensed as a semitrailer.~~
- d) ~~Permits for multiple moves in excess of 16 feet 0 inches wide over the same route or from a central point will not be issued without exceptional justification of need.~~

(Source: Repealed at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART F: OVERWEIGHT VEHICLES AND LOADS

Section 554.602 Legal Weights

See Form OPER BT-753 and Section 15-111 of the Code~~The Illinois Size and Weight Law.~~

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.603 Exceptions to Legal Weights

Fire apparatus or equipment designed for snow and ice removal owned and/or operated by governmental agencies, implements of husbandry temporarily operated or towed upon a highway, and vehicles and loads operated by a public utility when transporting equipment required for emergency repairs are exempt from weight limitations.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.604 Practical Maximum Weights

All requests for overweight moves are considered. However, due to the physical capacity of the

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highways and bridges, practical maximum weights have been established. Although many bridges will not carry these weights, routes are generally available to most destinations. These weights are:

- a) 6 or more-axle tractor semitrailer combination 120,000 pounds gross; 48,000 pounds on drive tandem; 60,000 pounds on semitrailer ~~3-axle~~ tandem.
- b) 5-axle tractor semitrailer combination 100,000 pounds gross; maximum of 48,000 pounds on either tandem.
- c) 4-or-more-axle vehicle (axle spacing 23 feet or more): up to and including 76,000 pounds gross; maximum of 34,000 pounds on one tandem and 44,000 pounds on the other.
- d) 3-or-more-axle vehicle (axle spacing 18 feet or more): maximum 68,000 pounds gross; 20,000 pounds on one axle and 48,000 pounds on the tandem.
- e) 2-axle vehicle: maximum 48,000 pounds, neither axle exceeds 25,000 pounds.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.605 Superload Moves

Superload moves or moves on nonstandard vehicles or with nonstandard axle configurations may be authorized if allowable pavement and bridge stresses are not exceeded. These moves normally require additional time and fees (see Section 554.910) for analyses.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.606 Maximum Weight on Chicago Expressways

The maximum gross weight that may be authorized on Chicago expressway is practical maximum weights as described in Section 554.604~~88,000 pounds on five and six-axle tractor-semitrailer combinations, 72,000 pounds on four-axle vehicles and 60,000 pounds on three-axle vehicles.~~

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.607 Movement to a Designated Scale

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Sections 15-301(b) and (f) of the ~~Code Illinois Size and Weight Law~~ allow the permittee to travel to a certified scale to verify the axle and gross weights of an overweight load when the permittee is uncertain of the correct weights. The following conditions apply:

- a) The ~~applicant~~**permittee** must, on ~~the his~~ original application, request that ~~the load~~ ~~be~~ routed to a certified scale, the location of which ~~was he has~~ designated on the application.
- b) For ~~all single trip permits~~**superloads**, the scale must be the nearest scale to the permittee's origin that has been certified by the Illinois Department of Agriculture (State weigh stations included). ~~The "nearest Nearest scale" for routine permit loads is defined as a scale within 25 miles of the permitted load's origin or no more than 1/3 of the total distance of the permitted route, whichever distance is less. The scale must be certified by the Illinois Department of Agriculture (State weigh stations included).~~ However, if size and/or weight limits preclude the use of the requested scale, the permittee shall be routed to the first scale located within the route assigned by the Permit Office provided such scale is located within 25 miles of the permittee's origin or no more than 1/3 of the total distance of the permitted route, whichever distance is less.
- c) The ~~applicant~~**permittee** must indicate the requested routing.
- d) If any routes under the jurisdiction of local agencies are included in the routing, the ~~applicant~~**permittee** must provide evidence that ~~approval he has~~ ~~been~~ secured ~~approval~~ from the local authority having jurisdiction.
- e) Due to the volume of permits handled, the Permit Office cannot assist the ~~applicant~~**permittee** in determining the closest certified scale. By approving the routing to the scale as requested by the applicant and indicating the weight of the load is to be checked at a designated scale, the Permit Office in no way implies that it is the closest certified scale to the ~~permit's~~**permittee's** origin. If a police officer finds there is a closer certified scale, ~~the police officer he~~ may require the ~~permittee driver~~ to travel to that scale; however, it is that ~~police officer's~~ responsibility to verify ~~that~~ the routes can accommodate the load.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.608 Status of Permittee While Enroute to the Scale

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- a) When the ~~applicant~~permittee has requested travel to a designated scale and the routing and scale have been specified in the permit by the Permit Office the permittee shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:
- 1) Single axle 2,000 pounds
 - 2) Tandem axle 3,000 pounds
 - 3) Gross 5,000 pounds
- b) If the permittee is stopped by a police officer while enroute to the scale specified in the permit, the police officer may accompany the permittee to the designated scale and witness the weighing, or the police officer may direct the permittee to a closer certified scale. However, the police officer assumes responsibility for ensuring that the selected route he selects to the alternate scale can safely accommodate the load. The Permit Office may be contacted if the police officer
~~The officer may contact the Permit Office if he is~~ unsure of the capacity of the route.
- c) If after checking the weights at the scale, the permittee finds that the weights are within the limits indicated ~~in on~~ the permit, the permittee he may proceed to the his destination by using the routes indicated in the permit. However, the permittee must still stop at all open weigh stations along the permitted his route and will be is subject to all normal enforcement action.
- d) If the permittee finds that the load exceeds one or more of the limits specified in the permit, but is within the tolerances indicated in subsection (a), the permittee he must contact the Permit Office ~~to and~~ either obtain a revised permit, as provided in Section 554.211 of this Part, or reduce the his weights to those specified in the his permit before proceeding. Under the provisions of Section 15-301(f) of the ~~Code~~Illinois Size and Weight Law, the permittee he is not subject to arrest for being overweight while at or ~~en route~~enroute to the designated scale unless the load he is found to be in excess of the his permit limits by more than the weight tolerance in subsection (a).
- e) If the load exceeds one or more of the limits specified in the permit by an amount

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in excess of the tolerances indicated in subsection (a), the permittee is subject to arrest if a police officer witnesses the weighing or if the permittee moves the load from the scale premises without either first adjusting the load to within the limits specified in the permit or obtaining a new permit that covers the movement.

There shall be no refund of fees for any permit so exceeded, nor will there be any reduction in the fee for the new permit.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.611 Permit Axle Spacing Requirements

- a) The spacing requirements for all overweight loaded routine and superload permits, as well as all towed routine permits, are as follows:
- 1) the spacing between the steer axle and the first axle on the tractor tandem may not be less than 8 feet 1 inch;
 - 2) the spacing before the first axle of the trailer may not be less than 18 feet 6 inches; and
 - 3) the sum of all axle spacings must be at least 43 feet 6 inches.
- b) All towed permits that do not meet these minimum spacing requirements will automatically be processed by the Department as a superload permit.

(Source: Added at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART G: SPECIFIC POLICIES INDUSTRIAL HIGHWAY CROSSING

Section 554.705 Disabled Vehicles

A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, which exceeds the legal length and/or weight limits may be operated on a highway under the following conditions: (See Sections 15-107 and 15-111 of the Code Illinois Size and Weight Law):

- a) Prior to towing, neither the disabled vehicle, disabled combination of vehicles, nor the tow truck shall individually exceed the legal length or weight limits. When overweight, the towing shall not exceed a distance of 20 miles from the

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initial point of wreck or disablement provided neither the tow truck nor the vehicle being towed shall exceed the following axle weight limits as prescribed by Section 15-301(n) of the Code:

Single rear axle – ~~26,000~~24,000 pounds

~~2-axle rear tandem~~ Tandem rear axle – ~~50,000~~44,000 pounds

~~3-axle rear tandem rear axle – 60,000 pounds-~~

- b) Any additional movement of the disabled vehicles shall be under normal permit procedures (Section 554.306). Requests for the emergency movement of equipment when the Permit Office is closed will be considered under the provisions of Section 554.801.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.706 Implements of Husbandry

Sections 1-130, 11-1418, 15-101, and 15-102 of the Illinois Vehicle Code provide information and exemptions for the movement of implements of husbandry. (Form OPER 2279 provides transport rules (see Section 625 ILCS 5/15-102(b)(2)(A) through -(H) of the Code) for width exempt loads.) However, implements of husbandry may be barred from operation on controlled access highways when official signs prohibiting such operation are posted. An implement of husbandry by definition (see Section 625 ILCS 5/1-130 of the Code) is a vehicle; therefore, for a farm tractor to be exempt, it must be used solely as an implement of husbandry in connection with farming operations.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.709 Government Moves by Commercial Carriers

- a) Occasionally, government shipments in excess of permit policy limits must be moved over the highways. Written certification in the form of a Letter of Essentiality as to the necessity of the such movement stating and that it is in the interest of national defense shall be obtained from: the United States Military Surface Deployment and Distribution Command Transportation Engineering Agency at 757/878-7582.

Chief, Special Movements Section

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~~Special Commodities Branch
Freight Traffic Division
Eastern Area
Military Traffic Management Command
Bayonne, New Jersey 07002
Phone: Area Code (201)858-7228
OR
Other comparable governmental agency~~

- b) Upon receipt of the application for permit, together with satisfactory certification as to the necessity for the movement from the Transportation Officer, the Permit Office will issue the permit.
- c) When travel at night is authorized, an escort vehicle must accompany the movement.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.710 Military Moves by Service Personnel

- a) All movements by the Armed Forces and the National Guard must be in compliance with the size and weight limits contained in Sections 15-102, 15-103, 15-107, and 15-111 of the ~~Illinois Vehicle Code~~, unless an authorization has been issued by the Permit Office or an emergency has been officially declared by the President or Governor. In the event an official emergency is declared, telephone contact should be made with the Permit Office (217/-782-6271) during regular office hours, or the Communications Center (217/-782-2937) at other times, for assistance with the routing.
- b) If it is necessary to move a vehicle or load that cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Permit Office. Applications may be submitted for routine and superload permits via letter, fax, internet or by phone on the Department of Defense standard forms. Routine moves (see Sections 554.504 and 554.604) may also be submitted on Form OPER 1928 and superload moves (any moves that exceed the dimensions in Sections 554.504 and 554.604) may also be submitted on Form OPER 2270. ~~Application may be on Form OPER 1928, Department of Defense standard forms, by letter, by fax, by Internet or by phone. If the Permit Office determines the~~

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move can be made in safety without damaging the highway system, a no-cost authorization will be issued (Section ~~625 ILCS 5/15-301~~ of the Code).

- c) The Permit Office will review requests for routine military convoy movements that are submitted on standard military forms and will issue permits to overweight vehicles and loads that are included. These authorizations do not relieve the Armed Forces or National Guard from overall responsibility for the convoy movement.
- d) The branch of the Armed Forces or National Guard authorizing oversize or overweight moves without the approval of the Permit Office assumes full liability for accidents or damages that may be caused directly or indirectly by reason of the movements. While the driver is not subject to arrest, any unauthorized shipment found to be in violation of the legal size and weight limits shall not be allowed to proceed until the excess load is shifted or removed, or the Permit Office approves the movement.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART H: EMERGENCIES AND HAZARDOUS MATERIALS

Section 554.801 General

- a) The Engineer of Operations through the Permit Office, or the Regional District Engineer in the District in which the event occurs, may authorize emergency moves of vehicles, vehicle combinations, or loads that exceed the maximum legal dimension and weight limitations in a disaster area without a standard permit. Authorization may also be issued for the movement of State, local agency, or leased equipment for snow and ice removal without permit. However, normal permit requirements should be generally observed where practicable. During regular office hours, the Permit Office (217/-782-6271) should be contacted for assistance in permit routing and coordinating the movement. When the Permit Office is closed, the Department's Communications Center ~~Section of the Department~~ (217/-782-2937) will contact permit officials as needed and coordinate the movement.
- b) For purposes of this Part, "disaster" includes flood, tornado, fire, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to seriously endanger the public health, safety, and welfare

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or that causes or threatens to cause destruction or major damage to the highway or other transportation system. Emergency moves may be authorized:

- 1) when disaster is apparent,
 - 2) during the disaster period, and
 - 3) in the initial stages of recovery.
- c) Following the emergency, such vehicles, vehicle combinations, or loads must be moved from the disaster area under permit authority.
- d) The Permit Office may also allow the movement of equipment that is needed to make emergency repairs to industrial installations and other facilities where delays would cause severe economic hardship. The Department considers a severe economic hardship to be whenever the company will have to lay off one or more shifts of employees or there is a potential loss of contracts or equipment worth several thousands of dollars.
- e) Companies moving at least once a month on an emergency basis, and providing emergency services as a portion of their regular business, must have escort and lighting approval. The escort vehicles must comply with the requirements in Section 554.408 and the extremities of the load must be illuminated. An illuminated or reflectorized "Oversize Load" sign must be displayed on the front and rear of each load and escort vehicle. They must also establish an account with the Permit Office or use a MasterCard or VISA credit card for the payment of fees.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.803 Railroad Derailment Emergency Moves

Emergency moves of vehicles or loads to railroad derailments may be authorized for movement over State highways during periods when normal permits are restricted, provided:

- a) There is a loss of life threatened, hazardous materials are involved, a mainline or other major line is blocked, and the Department is notified of the incident no more than six hours after it has occurred. If more than six hours have elapsed before the Department is advised, the situation is not generally considered to be of an

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emergency nature.

- b) During normal working hours, the emergency services company must obtain a standard permit by contacting ~~(217/)~~785-1477, Extension 1, outside of Illinois or 800/252-8636, Extension 1, within Illinois. If the incident occurs when the Permit Office is not open, the railroad representative and the requested emergency services company must contact the Department's Communications Center central dispatcher ~~(217/782-2937)~~ within six hours after ~~of~~ the time of occurrence to request the move and provide details. The required information that must normally be provided before authorization will be granted includes the exact location of the incident, the time of occurrence, the number of cars involved, an exact listing of the commodities contained in each car, the description of equipment needed, the origin and requested routing of the move. If loss of life is threatened or a highway is blocked, the Permit Office may waive the immediate need for some of this information.
- c) After receipt and verification of the required information, the Department representative will check the requested routing to ensure it will safely accommodate the load. If the authorization is approved, a permit ~~he/she~~ will then be issued ~~issue the permit~~ by telephone and ~~send a Teletype message~~ will be sent to the Illinois State Police. The Department's Communications Center ~~He/she~~ will also advise the State Emergency Management Agency of the incident and the commodities involved. In order to obtain an authorization for movement at night or on weekends, the permittee must have received prior Permit Office approval of their escort and emergency lighting protection or have approval from the Illinois State Police that they will escort the move.
- d) That, due to the physical capacity of the highways, the proposed moves are ~~be~~ 12 feet or less in width, 13 feet 6 inches or less in ~~of legal~~ height, and do not exceed the practical maximum weights listed in Section 554.604.
- e) That insofar as practicable, all safety precautions and operational conditions normally imposed by the Permit Office for special movement be observed.
- f) If traveling conditions on the involved highways are considered hazardous due to weather, the Department ~~Department's dispatcher~~ will contact the Illinois State Police and, if necessary, hold the authorization until the highways are sufficiently clear to allow safe movement. While the provision may result in some delay, it is the Department's responsibility to ensure the presence of these oversize and

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overweight movements on the highway does not unduly endanger other motorists.

- g) After release of the authorization, the permit fee will be charged to the emergency service company's account or be processed for billing.
- h) That annual permits are available to *move oversize or overweight equipment to the sites of train derailments and shall include all equipment otherwise eligible to obtain single trip permits under normal situations. Annual permits can be used at any time for movement to the site of a train derailment.* (Section ~~[625 ILCS 5/15-308.1~~ of the Code])

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.807 Disabled Vehicles

Limited continuous operation permits may be issued for the movement of oversize/overweight vehicles and combinations from disablement sites (see Section 15-301(n) of the Code), provided:

- a) No single axle within a tandem exceeds 26,000 pounds.
- b) No two axle tandem exceeds 50,000 pounds.
- c) No three axle tandem exceeds 60,000 pounds.
- d) The overall dimensions do not exceed 10 feet in width, 13 feet 6 inches in height and 115 feet in length and the overall height does not exceed 13 feet 6 inches. (NOTE: One civilian escort is required for loads that exceed 110 feet in length.)
- e) Permitted movement is from disablement site to a point where repairs are actually to occur. Continuous Operation Permits are available to remove disabled vehicles from the point of disablement on Illinois highways to a site not exceeding 50 miles from that initial hook-up point. No single rear axle shall exceed 26,000 pounds and no tandem rear axle shall exceed 50,000 pounds. (See 625 ILCS 5/15-301(n).)

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

SUBPART I: FEES

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Section 554.902 Exemptions to the Requirement of Payment of Fees

The requirement for payment of fees shall not apply to vehicles owned and operated by the United States, this State, or any ~~political~~ ~~police~~ subdivision or municipality of this State.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.903 Bonded Charge Accounts

An applicant may establish a Bonded Charge Account or Escrow Account with the Permit Office in lieu of paying for each permit before it is issued. Application forms may be obtained from the Permit Office for establishing either type of account.

- a) The following conditions govern the establishment and maintenance of Bonded Charge Accounts.
 - 1) Application Form ~~OPER BT~~-1932 must be completed in duplicate and submitted to the Permit Office.
 - 2) A surety bond, Form ~~OPER BT~~-1931 and a power of attorney for surety must accompany this application. The bonding agency must execute the bond in the minimum amount of \$1000 or in increments of \$1000 to an amount equal to at least twice the applicant's anticipated monthly charge.
 - 3) Upon approval of the account, the applicant will be given a confidential number that must be given with each permit application. The applicant is responsible for all charges filed against the account.
 - 4) The Permit Office will furnish billing statements every 30 days, providing there has been activity against the account, that will show charges, payments, adjustments and the amount due. Payment in full is due within two weeks following the billing date. Any bills not paid within 30 calendar days from the date of the statement will result in the withholding of permits to the account holder until the ~~delinquent~~ ~~delinquent~~ amount is paid.
 - 5) The Permit Office may execute the surety bond to collect any unpaid balance. Reinstatement of credit and issuance of permits will be withheld

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until payment in full is received and a new bond is provided.

- 6) Upon request, the Permit Office will notify the account holder when the total amount due reaches an agreed warning limit.

- b) The following conditions apply to Escrow Accounts.

- 1) Application Form ~~OPER BT~~ 1932 must be completed in duplicate and submitted to the Permit Office.
- 2) Deposits must be made in multiples of \$100.
- 3) Upon approval of the account, the applicant will be given a confidential number that must be given with each application. The applicant is responsible for all charges filed against the account.
- 4) The Permit Office will furnish monthly statements, providing there has been activity against the account; that will show charges, deposits, adjustments, and the current prepaid amount remaining.
- 5) The account holder may replenish his or her funds ~~fund~~ at any time.
- 6) An escrow (prepaid) account will remain open as long as there is a positive balance. The balance will be reduced by the fee amount for each permit issued.
- 7) Upon request, the Permit Office will notify the account holder when the prepaid amount is reduced to an agreed warning limit.
- 8) An escrow account may be closed at any time and the unused balance processed for a refund. Closing of the account and requests for refunds must be in writing.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.904 Refunds

- a) Refunds may be made under the following circumstances:

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- 1) The Permit Office has received an amount in excess of the required permit fee;
- 2) The application for permit has not been approved by the Permit Office;
- 3) The applicant has canceled the application before the permit has been issued by the Permit Office or before the effective date of the permit;
- 4) The permittee has mailed the permit to:

Illinois Department of Transportation, Permit Office
2300 S. Dirksen Parkway, Room 117
Springfield, IL 62764

(NOTE: The envelope must be postmarked at least one day prior to the effective date.);

- 54) The Permit Office has been notified, prior to the expiration date of the permit, that unusual circumstances, which render a proposed move impractical or impossible, have developed. This must be substantiated, in writing, to the satisfaction of the Permit Office;
- 65) The ~~permittee applicant~~ has notified the Permit Office of an overcharge on a permit; or
- 76) The customer has closed his or her escrow account.

- b) Refunds, when authorized, due to Illinois law will be made from funds appropriated to the Department and will not be made from the daily receipt in the Permit Office. If an adjustment is made in a permit fee or a permit is cancelled, and the customer has an existing account with the Permit Office, the refund will be shown as an adjustment to the account along with an appropriate note.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.906 Basis for Fees

Permit fees will be based upon the overall dimensions and weights of the vehicle or, combination of vehicles and the distance traveled on State highways. The amount of the fees is specified in

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Sections 15-302 through 15-313 of the Code~~Illinois Size and Weight Law~~.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.907 Supplemental Permit Fees

The Permit Office shall collect a fee of \$5 for each supplemental permit (~~one revision~~ revisions and/or ~~one extension~~ extensions). In addition, if the supplemental permit provides for an increase in size, weight, or mileage, those additional fees will be charged. However, no credit can be given for fees paid if dimensions, weights, or mileages are reduced. A handling fee of \$50 is added for supplements to superload permits and limited continuous operation permits.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.908 Service Charge for Special Handling

When special transmission of permits by electronic communications equipment is requested by an applicant or permittee, a service charge ~~in an amount sufficient to defray the cost to the Permit Office~~ will be charged. The current charge is \$1.00 for each permit. Permits may be transmitted by facsimile copy (FAX) or by e-mail if ordered via the Internet.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.909 Fees for Buildings and Special Moves

When buildings or large machines are moved on house moving equipment or on their own trucks or tracks, fees will be based on maximum overall dimensions, District engineering investigations and Illinois State Police processing fees~~eseort~~, but excluding weight.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

Section 554.911 Fees for Illinois State Police Escorts

- a) The following processing fees for the use of Illinois State Police escorts (see Section 15-312 of the Code) shall be paid by the applicant to the Permit Office: ~~\$8040~~ per Illinois State Police District, excluding the Chicago District, that the load will be traveling through. When traveling through the Chicago District, the fee is \$160. To view the Illinois State Police district map go to <http://www.isp.state.il.us/districts/districtfinder.cfm> ~~hour per vehicle, based upon~~

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~~preestimated time of movement to be agreed upon between the Department and applicant. Adjustments in the fee may be made for any overcharges after all aspects of the move are completed. Minimum fee, \$80 per vehicle. Minimum fee, \$160 per vehicle Chicago District only. The permittee must contact the notify all Illinois State Police Central Headquarters at 217/782-6527 districts listed on the permit at least 24 hours in advance of any a move that requires an Illinois State Police escort.~~

- b) The Illinois State Police will charge an additional hourly fee for the use of their escorts.

(Source: Amended at 36 Ill. Reg. 13254, effective August 1, 2012)

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 July 31, 2012 through August 6, 2012 and have been scheduled for review by the Committee at its September 11, 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>
9/13/12	<u>Department of Natural Resources</u> , Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill. Adm. Code 530)	6/1/12 36 Ill. Reg. 8187	9/11/12
9/15/12	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	6/1/12 36 Ill. Reg. 8227	9/11/12

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period April 1, 2012 through June 30, 2012.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006; 30 Ill. Reg. 9195, May 12, 2006; 30 Ill. Reg. 14377, September 1, 2006; 31 Ill. Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008; 32 Ill. Reg. 8454, June 6, 2008; 32 Ill. Reg. 13595, August 15, 2008; 32 Ill. Reg. 19961, December 19, 2008; 33 Ill. Reg. 3683, February 27, 2009; 33 Ill. Reg. 9191, June 26, 2009; 33 Ill. Reg. 13526, September 25, 2009; 33 Ill. Reg. 17178, December 18, 2009; 34 Ill. Reg. 6546, May 7, 2010; 34 Ill. Reg. 7811, June 4, 2010; 34 Ill. Reg. 13565, September 17, 2010; 34 Ill. Reg. 17490, November 12, 2010; 35 Ill. Reg. 3618, February 25, 2011; 35 Ill. Reg. 8574, June 3, 2011; 35 Ill. Reg. 12835, July 29, 2011; 35 Ill. Reg. 18973, November 14, 2011; 36 Ill. Reg. 3977, March 9, 2012; and 36 Ill. Reg. 8521, June 8, 2012.

Aquatic life and human health criteria for General Use (35 Ill. Adm. Code 303.201) and Lake Michigan Basin (35 Ill. Adm. Code 303.443) waters are listed below. General Use human health

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criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. General Use and Lake Michigan Basin waters used as Public and Food Processing Water Supplies (35 Ill. Adm. Code 303.202) are subject to more stringent human health criteria as specified in their respective derivation procedures (35 Ill. Adm. Code 302.648 and 302.657 and 35 Ill. Adm. Code 302.585 and 302.590, respectively). Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetochlor	CAS #34256-82-1
Acute criterion: 150 ug/l	Chronic criterion: 12 ug/l
Date criteria derived: September 26, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Human health criterion (HTC): Non-primary contact, 20 mg/L	
Date criteria derived: December 7, 1993; revised January 23, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acrolein	CAS #107-02-8
Acute criterion: 2.7 µg/l	Chronic criterion: 0.22 µg/l
Date criteria calculated: February 1999; reviewed January 2008	
Applicable waterbodies: Not used during this period.	

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Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Aniline	CAS #62-53-3
Acute criterion: 120 µg/l	Chronic criterion: 15 µg/l
Date criteria calculated: July 24, 1998; reviewed April 15, 2009	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Acute criterion: 0.66 ug/L	Chronic Criterion: 0.53 ug/L
Human health criterion (HTC): 35 mg/l	
Date criteria derived: August 18, 1993, revised May 30, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Antimony	CAS #7440-36-0
Acute criterion: 1,200 ug/L	Chronic Criterion: 320 ug/L
Human health criterion (HTC): 12,000 ug/l	
Non-primary contact: 1,200 ug/l	
Public and food processing water supply: 6 ug/l	
Date criteria derived: September 29, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Atrazine	CAS #1912-24-9
Acute criterion: 82 ug/l	Chronic criterion: 9.0 ug/L
Date criteria derived: May 2, 2005	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)anthracene	CAS #56-55-3
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)pyrene	CAS #50-32-8
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(b)fluoranthene	CAS # 205-99-2
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.
Chemical: Benzo(k)fluoranthene CAS #207-08-9 Human health criterion (HNC): 1.6 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Human health criterion (HNC): 1.9 ug/l Date criteria derived: February, 1999; reviewed: June 2009 Applicable waterbodies: Not used during this period.
Chemical: Bromodichloromethane CAS #75-27-4 Acute criterion: 10 ug/l Chronic criterion: 1 ug/l Human health criterion (HNC): 13 ug/l Date criteria derived: February 1, 1999 Applicable waterbodies: Not used during this period.
Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.
Chemical: 2-Chloroaniline CAS #95-51-2 Acute criterion: 75 ug/l Chronic criterion: 6 ug/l Date criteria derived: June 21, 1996; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: 4-Chloroaniline CAS #106-47-8 Acute criterion: 2.4 ug/l Date criteria derived: February 26, 1992; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloromethane CAS #74-87-3

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Acute criterion: 16 mg/l	Chronic criterion: 1.3 mg/l
Date criteria derived: December 11, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Chloroform	CAS #67-66-3
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Human health criterion (HNC): 130 ug/l	
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Chrysene	CAS #218-01-9
Human health criterion (HNC): 16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-D	CAS #94-75-7
Acute criterion: 100 ug/l	Chronic criterion: 8 ug/l
Date criteria derived: July 1, 1993; reviewed April 15, 2009	
Applicable waterbodies: Not used during this period.	
Chemical: Dibenz(a,h)anthracene	CAS #53-70-3
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived : February, 1999, reviewed June 2007	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichlorobenzene	CAS #95-50-1
Acute criterion: 210 ug/l	Chronic criterion: 17 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichlorobenzene	CAS #541-73-1
Acute criterion: 500 ug/l	Chronic criterion: 200 ug/l
Date criteria derived: July 31, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1-dichloroethane	CAS #75-34-3
Acute criterion: 20 mg/l	Chronic criterion: 2 mg/l
Date criteria derived: July 31, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloroethane	CAS #107-06-2
Acute criterion: 25 mg/l	Chronic criterion: 4.5 mg/l
Human health criterion (HNC): 23 ug/l	
Date criteria derived: March 19, 1992	

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Applicable waterbodies: Not used during this period.	
Chemical: 1,1-dichloroethylene	CAS #75-35-4
Acute criterion: 3,000 ug/l	Chronic criterion: 240 ug/l
Human health criterion (HTC): 110 ug/l	
Non-primary contact: 120 ug/l	
Public and food processing water supply: 6.6 ug/l	
Date criteria derived: March 20, 1992; revised May 04, 2009	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloroethylene	CAS #540-59-0
Acute criterion: 14 mg/l	Chronic criterion: 1.1 mg/l
Date criteria derived: November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: trans-1,2-dichloroethylene	CAS #156-60-5
Human health criterion (HTC): 34 mg/l	
Date criteria derived: February 1, 1999; reviewed December 2, 2010	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	

ENVIRONMENTAL PROTECTION AGENCY

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Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l
Date criteria derived: January 30, 1996	
Applicable waterbodies: Not used during this period.	
Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1
Acute criterion: 17 ug/l	Chronic criterion: 2 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Fluoranthene	CAS #206-44-0
Acute criterion: 4.3 ug/L	Chronic Criterion: 1.8 ug/L
Human health criterion (HTC): 120 ug/l	
Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic)	
Applicable waterbodies: Not used during this period.	
Chemical: Fluorene	CAS #86-73-7
Acute criterion: 59 ug/L	Chronic Criterion: 16 ug/L
Date criteria derived: June 6, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Formaldehyde	CAS #50-00-0
Acute criterion: 4.9 mg/l	Chronic criterion: 0.39 mg/l
Date criteria derived: January 19, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobenzene	CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobutadiene	CAS #87-68-3
Acute criterion: 35 ug/l	Chronic criterion: 2.8 ug/l
Date criteria derived: March 23, 1992	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Hexachloroethane	CAS #67-72-1
Acute criterion: 380 ug/l	Chronic criterion: 31 ug/l
Human health criterion (HNC): 2.9 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: n-Hexane	CAS #110-54-3
Acute criterion: 250 ug/l	Chronic criterion: 20 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Indeno(1,2,3-cd)pyrene	CAS #193-39-5
Human health criterion (HNC): 0.16 ug/l	
Date criteria calculated: February, 1992, reviewed June 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 330 ug/l	
Non-primary contact: 490 ug/l	
Public and food processing water supply: 4.6 ug/l	
Date criteria derived: January 21, 1992; revised November 25, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Methyl ethyl ketone	CAS #78-93-3
Acute criterion: 320 mg/l	Chronic criterion: 26 mg/l
Date criteria derived: July 1, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl-2-pentanone	CAS #108-10-1
Acute criterion: 46 mg/l	Chronic criterion: 1.4 mg/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2-methyl phenol	CAS #95-48-7
Acute criterion: 4.7 mg/l	Chronic criterion: 0.37 mg/l
Date criteria derived: November 8, 1993	

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Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl phenol	CAS #106-44-5
Acute criterion: 670 ug/l	Chronic criterion: 120 ug/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Methyl tert-butyl ether (MTBE)	CAS #134-04-4
Acute criterion: 67 mg/l	Chronic criterion: 5.4 mg/l
Date criteria derived: September 18, 1997	
Applicable waterbodies: Not used during this period.	
Chemical: Metolachlor	CAS #51218-45-2
Acute criterion: 380 ug/l	Chronic criterion: 30.4 ug/l
Date criteria derived: February 25, 1992; revised October 1, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Naphthalene	CAS #91-20-3
Acute criterion: 510 ug/l	Chronic criterion: 68 ug/l
Date criteria derived: November 7, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 4-nitroaniline	CAS #100-01-6
Acute criterion: 1.5 mg/l	Chronic criterion: 0.12 mg/l
Date criteria derived: May 5, 1996	
Applicable waterbodies: Not used during this period.	
Chemical: Nitrobenzene	CAS #98-95-3
Acute criterion: 15 mg/l	Chronic criterion: 8.0 mg/l
Human health criterion (HTC): 0.52 mg/l	
Date criteria derived: February 14, 1992; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: PCBs	CAS #1336-36-3
Human health criterion (HNC): 0.056 ng/l	
Non-primary contact: 0.056 ng/l	
Public and food processing water supply: 0.056 ng/l	
Date criteria derived: December 6, 2011	
Applicable waterbodies: Not used during this period.	
Chemical: Pentachlorophenol	CAS #87-86-5
Acute criterion: 20 ug/l	Chronic criterion: 13 ug/l
Date criteria derived: national criterion at pH of 7.8, September 1986	
Applicable waterbodies: Not used during this period.	

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Chemical: Phenanthrene Acute criterion: 46 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #85-01-8 Chronic criterion: 3.7 ug/l
Chemical: Propylene Acute criterion: 4.0 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #115-07-1 Chronic criterion 0.40 mg/l
Chemical: Pyrene Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Styrene Acute criterion: 2.5 mg/L Date criteria derived: October 26, 1992; reviewed May 4, 2009 Applicable waterbodies: Not used during this period.	CAS #120-42-5 Chronic criterion: 0.2 mg/L
Chemical: Tetrachloroethylene Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #127-18-4 Chronic criterion: 150 ug/l
Chemical: Tetrahydrofuran Acute criterion: 220 mg/l Date criteria derived: March 16, 1992 Applicable waterbodies: Not used during this period.	CAS #109-99-9 Chronic criterion: 17 mg/l
Chemical: Thallium Acute criterion: 86 ug/l Human health criterion (HTC): 3.0 ug/l Non-primary contact: 3.0 ug/l Public and food processing water supply: 1.2 ug/l Date criteria derived: October 22, 2007; revised November 18, 2008 Applicable waterbodies: Not used during this period.	CAS #7440-28-0 Chronic criterion: 11 ug/l
Chemical: 1,2,4-trichlorobenzene Acute criterion: 370 ug/l Date criteria derived: December 14, 1993; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #120-82-1 Chronic criterion: 72 ug/l
Chemical: 1,1,1-trichloroethane	CAS #71-55-6

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Acute criterion: 4,900 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	Chronic criterion: 390 ug/l
Chemical: 1,1,2-trichloroethane Acute criterion: 19 mg/l Human health criterion (HNC): 12 ug/l Date criteria derived: December 13, 1993; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #79-00-5 Chronic criterion: 4.4 mg/l
Chemical: Trichloroethylene Acute criterion: 12,000 ug/l Human health criterion (HNC): 25 ug/l Non-primary contact: 26 ug/l Public and food processing water supply: 2.5 ug/l Date criteria derived: October 23, 1992; revised November 18, 2008 Applicable waterbodies: Not used during this period.	CAS #79-01-6 Chronic criterion: 940 ug/l
Chemical: 1,2,4-trimethylbenzene Acute criterion: 360 ug/l Date criteria derived: July 15, 1998; reviewed December 2, 2010 Applicable waterbodies: Not used during this period.	CAS #95-63-6 Chronic criterion: 29 ug/l
Chemical: Vinyl chloride Acute criterion: 22 mg/l Human health criterion (HNC): 1.5 ug/l Non-primary contact: 2 ug/l Public and food processing water supply: 0.025 ug/l Date criteria derived: October 23, 1992; revised January 23, 2007; revised November 17, 2008 Applicable waterbodies: Not used during this period.	CAS #75-01-4 Chronic criterion: 1.7 mg/l

Lake Michigan Basin Criteria

Chemical: Antimony <u>Aquatic Life Criteria:</u> Acute criterion: 470 ug/l	CAS #7440-36-0 Chronic criterion: 120 ug/l
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LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: September 29, 2008 Applicable waterbodies: Not used during this period.	
Chemical: Bis(2-ethylhexyl)phthalate	CAS #117-81-7
<u>Aquatic Life Criteria:</u> Acute criterion: 76 ug/l Chronic criterion: 17 ug/l	
<u>Human Health Non-threshold Criteria:</u> Public and food processing water supply: 2.8 ug/l Non-drinking water: 3.2 ug/l	
Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloroethylene	CAS #540-59-0
<u>Aquatic Life Criteria:</u> Acute criterion: 8.8 mg/l Chronic criterion: 0.98 mg/l	
Date criteria derived: November 18, 2008 Applicable waterbodies: Not used during this period.	
Chemical: Methylene Chloride	CAS #75-09-2
<u>Aquatic Life Criteria:</u> Acute criterion: 10,803 ug/l Chronic criterion: 1,200 ug/l	
<u>Human Health Non-threshold Criteria:</u> Public and food processing water supply: 47 ug/l Non-drinking water: 2,600 ug/l	
Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.	
Chemical: Thallium	CAS #7440-28-0
<u>Aquatic Life Criteria:</u> Acute criterion: 54 ug/l Chronic criterion: 15 ug/l	
<u>Human Health Threshold Criteria:</u> Public and food processing water supply: 1.3 ug/l Non-drinking water: 3.7 ug/l	
Date criteria derived: June 20, 2006; revised November 18, 2008 Applicable waterbodies: Not used during this period.	
Chemical: Vinyl Chloride	CAS #75-01-4
<u>Aquatic Life Criteria:</u> Acute criterion: 8,380 ug/l Chronic criterion: 931 ug/l	
<u>Human Health Non-threshold Criteria:</u> Public and food processing water supply: 0.25 ug/l Non-drinking water: 14.4 ug/l	

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.
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For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

PROCLAMATIONS

2012-235**Wessell Family Day**

WHEREAS, freedom of the press in American society is not only a privilege but a right, and journalism serves as the information cornerstone of every community, where journalists bear a responsibility to accurately report the news in order to build a more informed public; and,

WHEREAS, one such publication is the Des Plaines Journal, founded in 1930 to circulate in Des Plaines and the surrounding North Suburbs of Chicago; and,

WHEREAS, Richard and Mary Jane Wessell, upon Richard's discharge from the United States Navy following World War II, took over ownership of the Des Plaines Journal in 1947 and diligently worked to grow the burgeoning newspaper; and,

WHEREAS, "The Journal" was able to increase readership through its dedication to the local news, publishing purely local information with a focus on hard news and features; and,

WHEREAS, following a series of expansions, with publications in East Maine Township and the Village of Niles, the second generation of Wessell's began contributing to the family business in the 1970's, exponentially increasing growth of "The Journal" and related publications; and,

WHEREAS, today, the Wessell Family regularly publishes 16 separate community newspapers throughout the North and Northwest suburbs of Chicago, along with 20 different annual travel guides, a Rosemont publication and a website; and,

WHEREAS, local journalism preserves the American spirit of independence and represents life, while also serving as historical scribe by recording community history as it happens; and,

WHEREAS, in honor of journalism and its place in American society, the Wessell Family will serve as Grand Marshalls of the Independence Day Parade in Des Plaines during their July 4th Celebration; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 4, 2012 as **WESSELL FAMILY DAY** in Illinois, in honor of their contributions to the journalism industry, and commend them on their dedication to the American value of free press.

Issued by the Governor July 2, 2012

Filed by the Secretary of State August 1, 2012

2012-236**Lakes Appreciation Month**

PROCLAMATIONS

WHEREAS, the State of Illinois is fortunate to have more than 3,041 lakes and more than 87,000 ponds within its boundaries; and,

WHEREAS, lakes and ponds are important resources to the State of Illinois' way of life and its environment, providing sources of recreation, scenic beauty and habitat for wildlife; and,

WHEREAS, Illinois lakes are valuable economic resources for Illinois businesses, tourism and municipal governments; and,

WHEREAS, thousands of citizen volunteers have demonstrated their interest in Illinois lakes by actively monitoring lake quality for more than 30 years through the Volunteer Lake Monitoring Program; and,

WHEREAS, the State of Illinois recognizes the need to protect these lakes and ponds for future generations; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 2012 as **LAKES APPRECIATION MONTH** in Illinois, in recognition of the importance of these vital resources.

Issued by the Governor July 5, 2012

Filed by the Secretary of State August 1, 2012

2012-237

Lee Greenwood

WHEREAS, Grammy Award winning, multi-platinum entertainer Greenwood has provided entertainment and inspiration for many Americans throughout his career spanning the better part of three decades; and,

WHEREAS, Lee Greenwood's musical career began while growing up on his parents' farm near Sacramento, California, where he learned to play the piano at age seven and the saxophone at age 12; and,

WHEREAS, Lee Greenwood started his first group, the Moonbeams, in Junior High and by the time he finished high school he could play almost all instruments in the orchestra; and,

WHEREAS, Lee Greenwood passed on a track & music scholarship at College of the Pacific to pursue his musical training on the casino circuit, where he was discovered in 1979 by Larry McFaden at the Nugget Casino in Sparks, Nevada; and,

PROCLAMATIONS

WHEREAS, Lee Greenwood signed with MCA Records in June 1981, quickly making a name for himself with his debut album "It Turns Me Inside Out," which generated four singles that made their way to the country Top Twenty; and,

WHEREAS, Lee Greenwood has been awarded Male Vocalist of the year for the Academy of Country Music in 1983, two Male Vocalist of the Year awards from the Country Music Association, 1983 and 1984, on top of producing numerous chart-topping songs; and,

WHEREAS, Lee Greenwood received a Grammy award for Top Male Vocal Performance in 1985 for "I.O.U." and was awarded the Country Music Association Song of the Year for writing "God Bless the USA"; and,

WHEREAS, "God Bless the USA" was number one on the pop charts after September 11, 2012, and has been in the top five on the country singles charts three times (1991,2001, and 2003), giving it the distinction of being the only song in any genre of music to achieve that feat; and,

WHEREAS, Lee Greenwood donates his time and talent for many charitable organizations, serving as the spokesman for "Products for Good", "Operation Never Forgotten" and on the advisory board for the "Challenger Commission";and,

WHEREAS, Lee Greenwood earned the Congressional Medal of Honor Society's "Patriot's Award," a Points of Light Foundation Award, and was appointed to the National Endowment for the Arts Council by President George W. Bush; and,

WHEREAS, Lee Greenwood's natural talent has earned worldwide recognition in the entertainment business; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 26, 2012 as **LEE GREENWOOD DAY** in Illinois, in honor of his contributions to country music and the people of America.

Issued by the Governor July 10, 2012

Filed by the Secretary of State August 1, 2012

2012-238

Red Power Roundup Days

WHEREAS, agriculture is the lifeblood of Illinois' economy; and,

PROCLAMATIONS

WHEREAS, The State of Illinois is uniquely suited to produce an abundance of agricultural products and is a national and world leader in the production and export of many of these agricultural goods; and,

WHEREAS, historically, we recognize that the economic development of our State was due in large part to our agricultural roots, while modern farming techniques coupled with technological advances in farming equipment have allowed our farms to operate more efficiently than ever before; and,

WHEREAS, our businesses, producer associations, and universities partner to drive agricultural technology into the future, while our regulatory agencies ensure product and transaction quality; and,

WHEREAS, International Harvester was an American Manufacturer of farm equipment founded in the 1830's; and,

WHEREAS, after a series of mergers and acquisitions, the company sold off its agricultural division and became what is now Navistar International Corporation, headquartered in Warrenville, Illinois; and,

WHEREAS, International Harvester did not rebrand before designing, manufacturing and selling a popular line of trucks and farm equipment, now recognized as classics by many collectors in the industry; and,

WHEREAS, The National International Harvester Collectors Club provides a worldwide collector's network for the preservation of history, products, literature and memorabilia of the International Harvester Company; and,

WHEREAS, Southern Illinois Chapter 32 of The National International Harvester Collectors Club will congregate on July 19-21, 2012 for their 23rd Annual "Red Power Roundup" event, which will showcase the collections of several International Harvester enthusiasts from across the region; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 19-21, 2012 as **RED POWER ROUNDUP DAYS** in Illinois, in recognition of International Harvester's historical contributions to the agricultural development of the Land of Lincoln and do hereby encourage all citizens to recognize the work of The National International Harvester Collectors Club in educating the public and preserving Illinois' treasured agricultural history.

Issued by the Governor July 18, 2012

Filed by the Secretary of State August 1, 2012

PROCLAMATIONS

2012-239**Breastfeeding Month**

WHEREAS, breastfeeding remains the most natural way of feeding infants and serves as part of a foundation for life-long health and wellness; and,

WHEREAS, breastfed infants are protected against serious long term health conditions including respiratory and ear infections, asthma, allergies, diarrhea, childhood cancer, obesity, Sudden Infant Death Syndrome and less than optimal brain development; and,

WHEREAS, breastfeeding promotes strong family bonds while providing economical and societal benefits through lowering possible health care costs; and

WHEREAS, a united effort is needed from businesses, communities, governmental leaders and health care providers to support breastfeeding. Businesses can ensure that working mothers have an appropriate place and reasonable break time to express their milk. Communities can support existing laws that protect a mother's right to breastfeed her child in any public location; and,

WHEREAS, government leaders can provide guidance on implementing the Illinois blueprint to breastfeeding while healthcare providers can implement Baby the Friendly Hospital Initiative and support the International Code of Marketing of Breast-milk Substitutes; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 30, 2012 as **BREASTFEEDING MONTH** in Illinois, and encourage promotion of a breastfeeding friendly culture throughout the State.

Issued by the Governor July 19, 2012

Filed by the Secretary of State August 1, 2012

2012-240**Filipino American Heritage Month**

WHEREAS, the earliest documented Filipino presence in the continental United States was on October 18, 1587, via the galleon ship Nuestra Senora de Esperanza; and,

WHEREAS, the first Filipino settlement in Louisiana in 1763 set in motion the many contributions Filipino-Americans have made towards the advancement of the United States in the fields of culture, society, politics, economics, education, technology, and religion; and,

PROCLAMATIONS

WHEREAS, the Filipino American community is the second largest Asian American group in the United States with a population estimated to be close to four million strong; and,

WHEREAS, Filipino American serviceman and servicewomen have a long-standing history in the United States Armed Forces, including approximately 250,000 Filipinos who fought under the United States flag during World War II; and,

WHEREAS, further efforts are needed to continue to promote the study and research of Filipino American history in order to have an all-inclusive United States history that reflects an appreciation of the richness of the Filipino ethnicity and legacy in our nation; and,

WHEREAS, the celebration of Filipino American History Month in October provides an opportunity to celebrate the heritage and culture of Filipino Americans and their immense contributions to our country, and presents a time to renew efforts toward the examination of history and culture in order to provide an opportunity for all people in the United States to learn more about Filipino Americans and their historic contributions to the growth and development of the United States; and,

WHEREAS, the Filipino American Historical Society of Greater Springfield and the Central Illinois Philippine Society will host a Kick-Off event on Saturday, October 1, 2012 to mark the beginning of Filipino American Heritage Month in the Land of Lincoln:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2012 as **FILIPINO AMERICAN HERITAGE MONTH** in Illinois, in recognition of the contributions Filipino Americans have made to our state and to our nation as a whole, and in celebration of all Filipino Americans who call Illinois home.

Issued by the Governor July 19, 2012

Filed by the Secretary of State August 1, 2012

2012-241**National Surgical Technologist Week**

WHEREAS, surgical technologists in Illinois play a vital role in the care and health of surgical patients; and,

WHEREAS, surgical technologists, also called scrubs and surgical or operating room technicians, are members of operating room teams, which most commonly include surgeons, anesthesiologists, and circulating nurses; and under the supervision of surgeons, registered nurses, or other surgical personnel, surgical technicians assist medical operations in a number of capacities; and,

PROCLAMATIONS

WHEREAS, today, all major hospitals in Illinois employ surgical technologists to work with surgeons in the operating room to provide quality patient care; and,

WHEREAS, as the baby boomer generation, which accounts for a large percentage of the general population, approaches retirement age, and technological advances, such as fiber optics and laser technology, permit new surgical procedures that surgical technologists often operate, employment of surgical technicians is expected to grow faster than average for all other occupations; and

WHEREAS, encouragingly, the Illinois community college system currently has 16 programs that graduate top quality students each year; and

WHEREAS, the Association of Surgical Technologists annually designates a week in September as National Surgical Technologist Week to celebrate and promote the profession; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 16 – 22, 2012 as **NATIONAL SURGICAL TECHNOLOGIST WEEK** in Illinois in honor of the outstanding service surgical technologists perform for surgical patients, and in support of the Association of Surgical Technologist's efforts to raise public awareness about the profession.

Issued by the Governor July 19, 2012

Filed by the Secretary of State August 1, 2012

2012-242**Chicago Defender Charities Inc. Bud Billiken Day**

WHEREAS, Chicago Defender Charities Inc. has a long tradition of helping Illinoisans in need through charitable aid such as financial assistance and scholarships to students, and gift baskets to public housing residents during the holiday seasons; and,

WHEREAS, Chicago Defender Charities Inc. also sponsors the historic 83rd annual Bud Billiken Parade and Picnic to be held this year on August 11, 2012; and,

WHEREAS, for the past 83 years, the Bud Billiken Parade and Picnic has provided wholesome fun and safe entertainment without charge to thousands of children; and,

WHEREAS, the Chicago Defender Charities Inc. Bud Billiken Parade and Picnic has become one of Chicago's most celebrated rites of summer for thousands of children returning to school, and a greatly anticipated event for families throughout the state; and

WHEREAS, the Chicago Defender Charities Inc. has always been committed to the support, encouragement and education of our youth; and,

PROCLAMATIONS

WHEREAS, this year's parade theme is "Education Built To Last: A Tribute To Barack Obama" which highlights the importance of educating our children; and,

WHEREAS, Bud Billiken has grown into more than an annual parade. The Chicago Defender Charities Inc. has also launched a green initiative – The Green Team Conservation and Recycling Program, to train, employ and prepare young people for the new green economy; and,

WHEREAS, organizations and events such as Chicago Defender Charities Inc. and the Bud Billiken Parade promote community service and unity, which are vital to the strength and success of communities throughout the Land of Lincoln; and,

THEREFORE, I Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 11, 2012 as **CHICAGO DEFENDER CHARITIES INC. BUD BILLIKEN DAY** in Illinois, and urge all citizens to join in the festivities.

Issued by the Governor July 20, 2012

Filed by the Secretary of State August 1, 2012

2012-243
Parents' Day

WHEREAS, no other job is more rewarding, challenging, or important as that of raising a child. The maternal and paternal, foster, adoptive, and relative parents that provide for the needs of children are truly a special gift to our society; and,

WHEREAS, parents play a critical role in their child's upbringing, instilling core values such as respect and integrity, that the child will eternalize for the rest of their lives; and,

WHEREAS, research has found that a strong parent-child relationship increases the likelihood that a child will be able to resist peer pressure, become more academically and economically successful, and decrease the chances that they will become involved with youth violence; and,

WHEREAS, in 1994, the United States Congress unanimously passed Public Law 103-362, creating a National observance for parents. On October 14 of that year, President Bill Clinton signed the bill into law, thereby establishing National Parents' Day; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 22, 2012 as **PARENTS' DAY** in Illinois, and encourage all citizens to honor the individuals who have provided our children with positive guidance, and who have been strong parental figures in their lives.

PROCLAMATIONS

Issued by the Governor July 20, 2012
Filed by the Secretary of State August 1, 2012

2012-244
Parents of Multiples

WHEREAS, according to the United States Census Bureau, the 2007 twin birth rate was 32.2 per 1,000 total births; and,

WHEREAS, according to the same Census date from 2007, the triplet/+ rate (the number of triplets, quadruplets, and quintuplets and other higher order multiples) was 148.9 per 100,000 births; and,

WHEREAS, twins and higher order multiples and their mothers share a special bond, but often can bring about unforeseen challenges and lifestyle adjustments; and,

WHEREAS, for that reason, the Illinois Organization of Mothers of Twins Clubs was formed in 1962 to provide support, information, and networking services to parents of twins and higher order multiples through its member club affiliates; and,

WHEREAS, the Illinois Organization of Mothers of Twins Clubs serves multiple birth families in Illinois through its scholarship program, Special Needs Assistance Fund, speakers' bureau, quarterly publication, and annual conference; and,

WHEREAS, the Illinois Organization of Mothers of Twins Clubs also serves as a liaison with the National Organization of Mothers of Twins Clubs, Inc., a network of local clubs nationwide whose basic purposes are research and education; and,

WHEREAS, each year, the Illinois Organization of Mothers of Twins Clubs hosts a convention that brings mothers of twins and higher order multiples throughout the state together to share new information and engage in networking opportunities; and,

WHEREAS, the 50th Annual Convention of the Illinois Mothers of Twins Clubs will be held October 19 - 21, 2012 in Peoria, Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 20, 2012 as **PARENTS OF MULTIPLES DAY** in Illinois, to recognize mothers of twins for the care and love they, like all mothers, provide to our children.

Issued by the Governor July 20, 2012

PROCLAMATIONS

Filed by the Secretary of State August 1, 2012

2012-245
National Health Center Week

WHEREAS, America's community health centers are at the core of our health care system and the nation's safety net because they deliver high quality, cost effective, and accessible primary care to all individuals regardless of their ability to pay; and,

WHEREAS, health centers are located in medically underserved areas and are locally-controlled by patient-majority boards; making each Health Center responsive to the needs of their community. Currently, there are more than 1,200 health centers serving as medical homes for more than 20 million individuals at more than 8,100 locations; and,

WHEREAS, local community owned and operated health centers serve as critical economic engines helping to power local economies. In these tough economic times, health centers are economic drivers in their communities; and,

WHEREAS, health centers offer patient-focused, coordinated health care – preventive and primary care that families and individuals need, where and when they need it. Community health centers employ more than 9,500 physicians and more than 6,300 nurse practitioners, physician assistants, and certified nurse midwives in a multi-disciplinary clinical workforce designed to treat the whole patient through culturally-competent, accessible, and integrated care. This unique model allows health centers to save the entire health system approximately \$24 billion annually by keeping patients out of costlier health care settings, such as emergency rooms; and,

WHEREAS, National Health Center Week offers the opportunity to recognize America's health centers and health centers across the State of Illinois, their staff, board members, and all those responsible for the continued success and growth of the program since it was created over 45 years ago. During National Health Center Week, we recognize the multitude of ways in which America's Health Centers are powering and empowering healthier communities by delivering high quality, cost effective, accessible health care; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 5-11, 2012, as **NATIONAL HEALTH CENTER WEEK** in Illinois and encourage every Illinois resident to visit their local health center and recognize, appreciate and celebrate the important partnership between Illinois' health centers and the communities they serve.

Issued by the Governor July 20, 2012

Filed by the Secretary of State August 1, 2012

PROCLAMATIONS

2012-246**Illinois Association For Home And Community Education Week**

WHEREAS, since 1924, members of the Illinois Association for Home and Community Education (IAHCE) have been promoting social and economic wellbeing in Illinois homes and neighborhoods; and,

WHEREAS, originally known as the Home Bureau Federation for farm wives, over the years the organization has continually evolved to meet changing times and needs; and,

WHEREAS, today the Illinois Association for Home and Community Education is an educational and community service organization comprised of over 10,000 men and women from 82 associations in 102 counties; and,

WHEREAS, the mission of the Illinois Association for Home and Community Education is to enhance the lives of individuals and families through quality educational programs and experiences encouraging responsible leadership and service to the community; and,

WHEREAS, IAHCE members volunteer their skills and energy to many different community service projects that include sending our troops care packages and making blankets for children in crisis situations and hospitals; and,

WHEREAS, altogether, IAHCE members across the Land of Lincoln volunteered more than 474,252 hours of their time to service projects last year:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 7 - 14, 2012 as **ILLINOIS ASSOCIATION FOR HOME AND COMMUNITY EDUCATION WEEK** in Illinois, in commendation of IAHCE members for their dedication and commitment to the welfare of local communities throughout our state.

Issued by the Governor July 20, 2012

Filed by the Secretary of State August 1, 2012

2012-247**Career And Technical Organizations Week**

WHEREAS, the proper education of today's youth is a concern of all Americans; and,

WHEREAS, career and technical student organizations are dedicated to the advancement of proper education, training and development of America's youth; and,

PROCLAMATIONS

WHEREAS, for more than 34 years, organizations such as the Illinois Coordinating Council for Career and Technical Student Organizations (ICCCTSO) have advanced awareness of the importance of career and technical student organizations as an integral part of the educational curriculum; and,

WHEREAS, career and technical student organizations in Illinois include the Business Professionals of America (BPA), Future Business Leaders of America (FBLA), Illinois Association of Family, Career and Community Leaders of America (FCCLA), Health Occupations Students of America (HOSA), Illinois Association of FFA, Illinois Association of DECA, Illinois Postsecondary Agricultural Student Organization (PAS), Phi Beta Lambda (PBL), Illinois Association of SkillsUSA, and Technology Student Association (TSA);and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 7 – 13, 2012 as **CAREER AND TECHNICAL ORGANIZATIONS WEEK** in Illinois, in recognition of the contributions made by these organizations to the education of our youth.

Issued by the Governor July 21, 2012

Filed by the Secretary of State August 1, 2012

2012-248**National Elevator Escalator Safety Awareness Week**

WHEREAS, every year in the United States, approximately 30 casualties and 17,000 serious injuries are caused by escalator and elevator accidents; and,

WHEREAS, of these incidents, 90% are elevator fatalities that result from individuals being caught between elevators, within elevator equipments, elevator collapses and tripping while entering or exiting ; and,

WHEREAS, an estimated 800,000 elevators and 30,000 escalators are currently in operation in the United States; and

WHEREAS, the purpose of National Elevator Escalator Safety Awareness Week is to increase public awareness of the safe and proper use of elevators, escalators and moving walkways in hopes of reducing through education avoidable accidents and fatal injuries; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 11-17, 2012 as **NATIONAL ELEVATOR ESCALATOR SAFETY AWARENESS WEEK** Illinois, and encourage all constituents to fully participate in this observance and improve the quality of life throughout the State.

PROCLAMATIONS

Issued by the Governor July 21, 2012
Filed by the Secretary of State August 1, 2012

2012-249
Women's Equality Day

WHEREAS, throughout our Nation's history, women have contributed to our economic vitality as meaningful participants in the workforce; and,

WHEREAS, women have tirelessly balanced their responsibilities in work, family, and community, strengthened our economic leadership and enriched our national life; and,

WHEREAS, the number of working females and the range of fields in which they have entered continues to expand and has reached unprecedented levels; and,

WHEREAS, despite demonstrated strength and intelligence in these accomplishments, women have nonetheless been marginalized and denied equal opportunity in some cases; and,

WHEREAS, while today there are more women in America's workforce than ever before, they still face significant obstacles to equal economic opportunity and advancement; and,

WHEREAS, the struggle to overcome gender inequality has been ongoing for over 160 years, when a group of women's rights advocates met for the Seneca Falls Convention in 1848; and,

WHEREAS, the achievements made since that time have been extensive, including the 19th amendment to obtain the right to vote, the 1938 Fair Labor Standards Act to ensure minimum wage and maximum hours, and the Equal Pay Act of 1963; and,

WHEREAS, unfortunately, the battle for full equality is far from over, as the fight for opportunities in career advancement, for improved working conditions, and for equal compensation continues; and,

WHEREAS, Women's Equality Day, which began in 1971 as a joint resolution of the United States Congress, acknowledges this continued struggle and commemorates the achievements made on behalf of all women thus far; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 26, 2012 as **WOMEN'S EQUALITY DAY** in Illinois.

Issued by the Governor July 21, 2012
Filed by the Secretary of State August 1, 2012

PROCLAMATIONS

2012-250**Check B4U Drive Days**

WHEREAS, diabetes has reached epidemic proportions in the United States; 23.6 million people or 7.8 percent of the population currently suffer from the disease. There are 17.9 million diagnosed diabetics, with an estimated 5.7 million undiagnosed; and,

WHEREAS, The Juvenile Diabetes No Limits Foundation has made it their mission to help kids, teens, and young adults with type 1 diabetes learn to better manage their disease, live fulfilling lives and achieve their dreams; and,

WHEREAS, teens and young adults with diabetes take on extra responsibilities and challenges when they learn to drive a motor vehicle; and

WHEREAS, The Juvenile Diabetes No Limits Foundation's one-day program, Check B4U Drive, was created to help teens with diabetes understand how to effectively manage their high and low glucose levels so they don't endanger themselves or others on the road; and,

WHEREAS, not properly managing glucose levels can cause slower response times and affect a person's ability to make good road choices; and,

WHEREAS, in an effort to maintain mobility and independence through driving, teens with diabetes are encouraged to take advantage of this one-day, no-cost driving minicamp to provide them with advanced driving techniques needed to become safe drivers; and,

WHEREAS, the Check B4U Drive program boosts confidence and comfort in parents who are concerned about diabetes management as their teens take to the road; and,

WHEREAS, better education and awareness leads to independence and safer driving; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 17-18, 2012 as **CHECK B4U DRIVE DAYS** in Illinois, and encourage all drivers to continue to help keep our roadways safe through education.

Issued by the Governor July 21, 2012

Filed by the Secretary of State August 1, 2012

2012-251**Sergeant Michael E. Ristau**

PROCLAMATIONS

WHEREAS, on Friday, July 13, United States Army Sergeant Michael E. Ristau of Rockford, Illinois died at age 25 as a result of wounds sustained during combat operations in Qalat Zabul Province, Afghanistan where he was serving in support of Operation Enduring Freedom; and,

WHEREAS, Sergeant Ristau was assigned to B Company, 5th Battalion, 20th Infantry Regiment of the 3rd Stryker Brigade , 2nd Infantry Division, Joint Base Lewis-McChord, Washington; and,

WHEREAS, Sergeant Ristau graduated from the Lincoln's Challenge Academy in Rantoul, Illinois in May 2004 and enlisted in the United States Army in June 2004; and,

WHEREAS, Sergeant Ristau married Elizabeth Ristau on June 18, 2011; and,

WHEREAS, Sergeant Ristau was an avid competitor in the rodeo and used the rodeo as a means to promote his faith while not on active duty; and,

WHEREAS, a funeral will be held on Saturday, July 28, 2012 for Sergeant Ristau, who is survived by his parents Randy and Suzanne Ristau , his wife Elizabeth Ristau, his brother Christopher Powers, his sister Halie Ristau, and his two sons Bradley Ristau and Hyle Ristau ; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Thursday, July 26, 2012 until sunset on Saturday, July 28, 2012 in honor and remembrance of Sergeant Michael E. Ristau, whose selfless service and sacrifice is an inspiration.

Issued by the Governor July 25, 2012

Filed by the Secretary of State August 1, 2012

ILLINOIS ADMINISTRATIVE CODE
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