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August 9, 2013 Volume 37, Issue 32

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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 2013

Issue#	Rules Due Date	Date of Issue
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
40	September 23, 2013	October 4, 2013
41	September 30, 2013	October 11, 2013
42	October 7, 2013	October 18, 2013
43	October 15, 2013	October 25, 2013
44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Chief Procurement Officer for the Department of Transportation – Contract Procurement
- 2) Code Citation: 44 Ill. Adm. Code 6
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
6.40	Amend
6.50	Amend
6.55	Amend
6.110	Amend
6.140	Amend
6.700	New
6.705	Amend
- 4) Statutory Authority: Implementing the Illinois Procurement Code [30 ILCS 500] and Section 2705-600 of the Department of Transportation Law [20 ILCS 2705/2705-600] and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25], Section 2705-600(7) of the Department of Transportation Law [20 ILCS 2705/2705-600(7)] and Section 25-101 of the Electronic Commerce Security Act
- 5) A Complete Description of the Subjects and Issues Involved: The Chief Procurement Officer for the Department of Transportation and the Department of Transportation are amending this Part for consistency with PA 97-895, effective August 3, 2012.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
6.900	New	37 Ill. Reg. 8051, June 21, 2013
6.905	New	37 Ill. Reg. 8051, June 21, 2013

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

6.910	New	37 Ill. Reg. 8051, June 21, 2013
6.915	New	37 Ill. Reg. 8051, June 21, 2013
6.920	New	37 Ill. Reg. 8051, June 21, 2013
6.925	New	37 Ill. Reg. 8051, June 21, 2013
6.930	New	37 Ill. Reg. 8051, June 21, 2013
6.935	New	37 Ill. Reg. 8051, June 21, 2013
6.940	New	37 Ill. Reg. 8051, June 21, 2013
6.945	New	37 Ill. Reg. 8051, June 21, 2013
6.950	New	37 Ill. Reg. 8051, June 21, 2013
6.955	New	37 Ill. Reg. 8051, June 21, 2013
6.960	New	37 Ill. Reg. 8051, June 21, 2013
6.965	New	37 Ill. Reg. 8051, June 21, 2013
6.970	New	37 Ill. Reg. 8051, June 21, 2013
6.975	New	37 Ill. Reg. 8051, June 21, 2013

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Mr. Bill Grunloh, Chief Procurement Officer
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 200
Springfield, Illinois 62764

217/558-5434

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses doing business with or seeking to do business with the Department may be affected.

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NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

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DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER III: CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

PART 6
CHIEF PROCUREMENT OFFICER FOR
THE DEPARTMENT OF TRANSPORTATION
– CONTRACT PROCUREMENT

SUBPART A: GENERAL

Section

- 6.10 Authority
- 6.20 Policy and Application
- 6.30 Purpose and Policy Interpretations
- 6.40 Definitions

SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

Section

- 6.50 Transportation Procurement Bulletin
- 6.55 Required Notices
- 6.60 Subscription Fees
- 6.70 Direct Solicitation

SUBPART C: METHODS OF PROCUREMENT

Section

- 6.80 Competitive Sealed Bids
- 6.90 Competitive Sealed Proposals
- 6.100 Small Contracts
- 6.110 Sole Source Contracts
- 6.120 Emergency Contracts
- 6.125 Small Business Set-Asides

SUBPART D: COMPETITIVE SEALED BID PROCEDURES

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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6.130	General Conditions for Use
6.140	Invitations for Bids
6.150	Amendments to Invitations for Bids
6.160	Preparation of Bids
6.170	Delivery of Bids
6.180	Change or Withdrawal of Bids
6.190	Combination Bids for Construction Contracts
6.200	Pre-Bid Conferences
6.210	Public Opening of Bids
6.220	Consideration of Bids
6.230	Mistakes
6.240	Award After Bid Evaluation
6.250	Split and Multiple Awards
6.260	Time for Award
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6.290	Requirement of Contract Bond for Construction Contracts
6.300	Execution of Contract
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6.330	Request for Proposals
6.340	Delivery of Proposals
6.350	Evaluation of Proposals
6.360	Discussions with Responsible Offerors
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6.410 Subject of the Protest
6.420 Filing of a Protest
6.430 Stay of Action during Protest
6.440 Decision

SUBPART H: SPECIFICATIONS

Section

6.450 Standard Specifications
6.460 Contract Documents
6.470 Specification Standards

SUBPART I: SUSPENSION OF CONTRACTORS OR SUBCONTRACTORS

Section

6.480 Purpose
6.490 Definitions
6.500 Policy
6.510 General
6.520 Causes for Suspension or Debarment
6.530 Interim Suspension
6.540 Voluntary Exclusion
6.550 Term of Suspension
6.560 Coverage
6.570 Other Agency Suspensions
6.580 Responsibility
6.590 Continuation of Executory Contracts
6.600 Exception Provision
6.610 Notice of Suspension
6.620 Response and Request for Hearing
6.630 Hearing Date and Hearing Officer

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AUTHORITY: Implementing the Illinois Procurement Code [30 ILCS 500] and Section 2705-600 of the Department of Transportation Law [20 ILCS 2705/2705-600] and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25], Section 2705-600(7) of the Department of Transportation Law [20 ILCS 2705/2705-600(7)] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11602, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21060, effective November 25, 1998; emergency amendment at 29 Ill. Reg. 7832, effective May 12, 2005, for a maximum of 150 days; emergency

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expired October 8, 2005; amended at 29 Ill. Reg. 18147, effective October 19, 2005; recodified, pursuant to PA 96-795, from Department of Transportation, 44 Ill. Adm. Code 660, to Chief Procurement Officer for Department of Transportation, 44 Ill. Adm. Code 6, at 35 Ill. Reg. 10158; amended at 35 Ill. Reg. 16518, effective September 30, 2011; amended at 36 Ill. Reg. 230, effective December 21, 2011; expedited correction at 36 Ill. Reg. 14883, effective December 21, 2011; amended at 37 Ill. Reg. 5764, effective April 19, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 6.40 Definitions

As used throughout this Part, terms defined in the Illinois Procurement Code have the same meaning as in the Code and as further defined in this Section. Each term listed in this Section has the meaning set forth as follows unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" – An offer made by a bidder in response to a contract item advertised in an Invitation for Bids.

"Bidder" – Any person or entity that in fact submits a bid.

"Change Order" – A formal, written directive issued to a contractor or an agreement that amends a contract in order to address contingencies affecting the performance and completion of the contract, including but not limited to such matters as extra work, design changes or alterations to plans, or special provisions or specifications for which no provision is included in the original contract.

"Chief Procurement Officer" or "CPO" – The person appointed under Section 1-15.15(2) of the Code.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Construction Agency" – The Illinois Department of Transportation for construction or maintenance of roads, highways, bridges and airports as an agency that enters into construction contracts as authorized by law or by delegation from the CPO. (See Section 1-15.25 of the Code.)

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"Contract" – In addition to the definition of contract set forth in Section 1-15.30 of the Code, a contract is the written agreement entered into at the discretion of the SPO between the Department and the contractor comprising such documents as set forth in each individual agreement, including change orders, contract adjustments, and renewals, and setting forth the obligations of the parties for the performance of the contract.

"Contract Adjustment" – A written price adjustment that adds to or deducts from a contract in accordance with provisions included in the original contract, including but not limited to increases or decreases in quantities, incentives, changed conditions and the addition of missing pay items called for in the specifications.

"Contractor" means any person, firm, corporation, organization, partnership or association, however organized, and its affiliates, including its owners, directors, officers, partners, managers, key employees and others engaged in primary managerial or supervisory positions.

"Day" – A calendar day.

"Department" – The Illinois Department of Transportation.

"Emergency Affidavit" – The affidavit filed by the CPO with the Procurement Policy Board and the Auditor General setting forth the actual or estimated amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. (See Section 20-30(c) of the Code.)

"Emergency Contract" – The initial written agreement for an emergency procurement.

"Germane" – In relationship to the modification, alteration or amendment of the terms of a contract by change order, the term "germane" means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

"Multi-year Contract" – A multi-year contract is a contract with a time of performance of more than 12 months.

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NOTICE OF PROPOSED AMENDMENTS

"Offerors" – For purposes of this Part, the term "offerors" includes only persons or entities submitting proposals that are acceptable or potentially acceptable. The term does not include persons or entities who submitted unacceptable proposals.

"PPB" – The Procurement Policy Board created by Section 5-5 of the Code.

"Procurement Compliance Monitor" or "PCM" – the person appointed under Section 10-15 of the Code.

"Proposal" – A response to a Request for Proposals.

"Purchasing Agency" – A State agency that enters into a contract at the direction of a State purchasing officer or a chief procurement officer. (See Section 1-15.70 of the Code.)

"Renewal" – An agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract.

"Responsible" – The capability, integrity and reliability of a bidder, offeror or contractor that, in all respects, will assure good faith performance to undertake and complete fully the requirements of a contract.

"Responsive" – In the context of bidding procedures, the compliance in all meaningful, material respects with the Invitation for Bids.

"Special Provisions" – Additions and revisions to the Standard Specifications for Road and Bridge Construction and the Supplemental Specifications and Recurring Special Provisions (see the Department's website at <http://www.dot.state.il.us/desenv/hwyspecs.html>) applicable to an individual contract.

"Specifications" – The body of directions, provisions, and requirements for performance of prescribed work. Specifications includes and may be referred to as the Standard Specifications, which is a Department publication of specifications approved for general application and repetitive use.

"State Purchasing Officer" or "SPO" – The person appointed under Section 10-10

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of the Code.

"Subcontract" – A contractual agreement between a person or entity and a person or entity who has a contract subject to the Code and this Part, pursuant to which the subcontractor assumes obligation for performing specified work. (See Section 1-15.107 of the Code.)

"Subcontractor" – A person or entity that enters into a contractual agreement with a total annual value of ~~\$50,000~~\$25,000 or more with a contractor who has a contract subject to the Code. (See Section 1-15.108 of the Code.)

"Supplemental Specifications" – Additions and revisions to the Department's Standard Specifications.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

Section 6.50 Transportation Procurement Bulletin

- a) ~~The CPO, in consultation with the Department, possesses the rights to, and is the authority responsible for, publishing the Department's volume of the Illinois Procurement Bulletin. The Department is responsible under the Code for publication of its volume of the Illinois Procurement Bulletin.~~ The Department volume is entitled the "Transportation Procurement Bulletin" (Bulletin). (See Section 15-1 of the Code.)
- b) The Bulletin is the published source for all Department procurement actions, notices and other information relevant to Department procurement activities undertaken pursuant to this Part, including but not limited to contracts offered in the Invitation for Bids, contracts awarded, change orders, emergency purchases and sole source procurements.
- c) The Bulletin may be published in subparts designed to enhance and focus the ability of users to find information relevant to the user's interest.
- d) The Bulletin or any subpart thereof will be published or updated at least once each month but may be updated more frequently. (See Section 15-15 of the Code.)

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- e) Notice of all awarded contracts, including renegotiated contracts and change orders, will be posted on the Department's website the next business day. Notice will be posted and published in the Bulletin and will include the following:
- 1) the name of the successful responsible bidder or offeror;
 - 2) the contract price;
 - 3) the number of unsuccessful responsive bidders; and
 - 4) any other disclosures, such as emergency purchase disclosures or any disclosure required under the Code.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 6.55 Required Notices

- ~~a)~~ ~~The Department is responsible for publishing its volumes of the Bulletin pursuant to this Subpart B.~~
- ~~a)b)~~ Notice of all awarded contracts entered into by the Department pursuant to Subpart D will be published in the Bulletin.
- ~~b)e)~~ Notice of Invitations for Bids are published in the Bulletin pursuant to Subpart D.
- ~~c)d)~~ Notice of contracts let are published in the Bulletin pursuant to Subpart D.
- ~~d)e)~~ Notice of contract renewals and change orders are published in the Bulletin pursuant to Subpart F.
- ~~e)f)~~ The CPO or SPO will provide notice of emergency contracts and any hearings to extend any emergency contract in the Bulletin pursuant to Subpart C.
- ~~f)g)~~ The CPO will provide a written description of the intent to enter into a sole source contract, along with a description of the item to be procured and the intended sole source contractor, in the Bulletin prior to entering into the sole source contract. The notice will be posted at least 14 days prior to the sole source hearing pursuant

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

to Subpart C.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART C: METHODS OF PROCUREMENT

Section 6.110 Sole Source Contracts

- a) A contract may be procured from a single source without competition or use of any other method of procurement prescribed in the Code or this Part when the single source is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)
- b) A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. Examples of circumstances that could necessitate sole source procurement include but are not limited to:
 - 1) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;
 - 2) when trial use, testing or the development of new technology is the object of the procurement;
 - 3) when a sole supplier's item is to be procured for commercial resale;
 - 4) when utility services are to be procured;
 - 5) when the surety providing a performance bond tenders a completion contractor, acceptable to the Department, to complete a defaulted contract;
 - 6) when the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent or service area licensee.
- c) When an interested party submits a written request for a public hearing, theThe CPO will provide notice of intent to contract on a sole source basis to the PPB and publish the notice in the Bulletin at least 14 days prior to the public hearing

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NOTICE OF PROPOSED AMENDMENTS

required in Section 20-25(a) of the Code. The notice will include the sole source procurement justification form prescribed by the PPB, a description of the item to be procured, the intended sole source contractor, and the date, time and location of the public hearing. (See Section 20-25 of the Code.)

- d) The CPO ~~may will~~ hold a public hearing in accordance with Section 20-25(a) of the Code.
- 1) Prior to the execution of a sole source contract, the CPO ~~may will~~ hold a public hearing and provide written justification for the sole source contract. The Department will also provide written justification for the sole source contract.
 - 2) ~~Any interested party~~~~The PPB and members of the public~~ may present testimony at the public hearing.
 - 3) A sole source contract, when a public hearing was requested by an interested party, may be awarded after the public hearing is conducted with the approval of the CPO.
 - 4)3) A copy of all procurement documents provided at the hearing will be included in the subsequent Bulletin, along with the decision of the CPO to award or not award the sole source contract.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: COMPETITIVE SEALED BID PROCEDURES

Section 6.140 Invitations for Bids

- a) The process for procuring a contract by competitive sealed bids begins with the issuance of an Invitation for Bids by publication in the Bulletin not less than 14 days prior to the date set for the opening of bids. (See Section 20-10(c) of the Code.)
- b) The Invitation for Bids may include more than one contract item and will include the following minimum requirements.

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NOTICE OF PROPOSED AMENDMENTS

- 1) Instructions and information to potential bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance, certifications and assurances, mandatory disclosures, and any other special information. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
 - 2) A purchase description for each contract item, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description.
 - 3) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 - 4) The Invitation for Bids may provide a form that will specify or organize the manner of price submission and that the bidder shall sign and submit along with all other necessary submissions, including disclosure forms.
- c) For procurements of construction, the Invitation for Bids also will include information and instructions for obtaining all contract specifications, special provisions, plans for the construction contract work and bid forms for individual contract items. Bidders for construction contracts are required to have Authorization to Bid issued in accordance with the Department's rules for Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration found at 44 Ill. Adm. Code 650.
- d) In addition, each construction contract item will include but not be limited to the following minimum information and requirements enforceable in accordance with State or federal law through the terms and conditions of the contract.
- 1) Information concerning the location, limits and description of the construction work and the scope thereof contemplated by the contract.
 - 2) An estimate of the various quantities of the type of work to be performed and the materials to be furnished in the performance of the contract.
 - 3) The manner of bid price submission for a construction contract may

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include lump sum, a schedule of unit prices or a combination thereof based upon the estimate of quantities provided in the contract.

- 4) The manner of making changes in the quantities and such alterations in the work as necessary to satisfactorily complete the contract.
- 5) Provisions to assure that all work is performed in accordance with the contract requirements including but not limited to the following methods.
 - A) Limitations on subcontracting;
 - B) Qualifications and requirements for contractor supervisory personnel;
 - C) Engineering services to be provided by the contractor;
 - D) Department provided resident personnel and inspectors;
 - E) Performance and payment bond requirements;
 - F) Inspection and acceptance of the work requirements;
 - G) Restrictions, sources and quality requirements for all materials and testing or inspection procedures;
 - H) The method of determination and documentation of pay quantities and a record of the materials, supplies and labor furnished in performance of the contract;
 - I) The manner of determining satisfactory prosecution of the work and progress to completion of the work in accordance with the time for completion set out in the contract including, when incorporated into the contract, provisions for liquidated damages and incentive payments for early completion; and
 - J) Provisions for the suspension of work and the termination of the contract.

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- 6) All labor, employment and wage requirements applicable to the contract, and the manner of payroll recording, submission and inspection. (See the Prevailing Wage Act [820 ILCS 130] [or the Davis-Bacon Act \(40 USC 3141\)](#).)
- 7) All procurement preferences made applicable to the contract. (See Article 45 of the Code.)
- 8) The manner of measuring the work for payment based upon the estimated quantities provided or upon the actual quantities of material and work measured and completed including but not limited to progress payments as the work proceeds, and final payment.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART J: MISCELLANEOUS

Section 6.700 Procurement File

The Department's procurement file will not include trade secrets or other competitively sensitive, confidential or proprietary information.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 6.705700 Property Rights

Receipt of an Invitation for Bids, Request for Proposals or other procurement document, or submission of any response thereto or other offer confers no right to receive an award or contract, nor does it obligate the State in any manner. All procurement documents submitted by a bidder or offeror become the property of the Department for disposition in accordance with the requirements of law. Trade secrets or other proprietary information submitted to the Department shall be expressly identified in writing; however, the Department reserves the right to determine the validity of any such claim, and may refuse to award a contract or may void any contract in circumstances where the party claiming the trade secret or proprietary data is unable to agree to disclosure for a public purpose. (See Section 1-25 of the Code.)

(Source: Section 6.705 renumbered from Section 6.700 at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.462 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This proposed amendment corrects an unintentional outcome of the Department's rulemaking effective 2/1/13 that required clinics to adhere to the group psychotherapy limitations that were implemented for physicians in 2009. The group psychotherapy limitations require that group psychotherapy services be directly performed by a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program. Historically, FQHCs and RHCs have utilized mid-level practitioners for group psych services. This rulemaking will allow this practice to continue; thereby protecting the continuity of care for participants receiving these services in an FQHC and RHC setting. All other limitations on group psychotherapy services (e.g., number of sessions per week, group size, medical documentation requirements and exclusion of LTC residents) will still apply to FQHCs and RHCs. The rulemaking also strikes unnecessary criteria for the payment of services for hospital-based organized clinics.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.491	Amendment	36 Ill. Reg. 18105; December 28, 2012
140.24	Amendment	37 Ill. Reg. 3362; March 22, 2013

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140.28	Amendment	37 Ill. Reg. 3362; March 22, 2013
140.481	Amendment	37 Ill. Reg. 5243; April 26, 2013
140.55	Amendment	37 Ill. Reg. 7078; May 24, 2013
140.80	Amendment	37 Ill. Reg. 10941; July 19, 2013
140.492	Amendment	37 Ill. Reg. 12317; August 2, 2013
140.493	Amendment	37 Ill. Reg. 12317; August 2, 2013

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233
HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded clinics
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

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- 14) Regulatory Agenda on which this Rulemaking was Summarized: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust

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

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- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

- Section
- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services
- 140.436 Limitations on Advanced Practice Nurse Services

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140.438	Diagnostic Imaging Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Care, Nursing and Public Health Providers
140.471	Description of Home Health Care Services
140.472	Types of Home Health Care Services
140.473	Prior Approval for Home Health Care Services
140.474	Payment for Home Health Care Services
140.475	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices

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- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Illinois Healthy Women
- 140.487 Healthy Kids Program Timeliness Standards
- 140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
- 140.490 Medical Transportation
- 140.491 Limitations on Medical Transportation
- 140.492 Payment for Medical Transportation
- 140.493 Payment for Helicopter Transportation
- 140.494 Record Requirements for Medical Transportation Services
- 140.495 Psychological Services
- 140.496 Payment for Psychological Services
- 140.497 Hearing Aids
- 140.498 Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section

- 140.500 Long Term Care Services
- 140.502 Cessation of Payment at Federal Direction
- 140.503 Cessation of Payment for Improper Level of Care
- 140.504 Cessation of Payment Because of Termination of Facility
- 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR
- 140.506 Provider Voluntary Withdrawal
- 140.507 Continuation of Provider Agreement
- 140.510 Determination of Need for Group Care
- 140.511 Long Term Care Services Covered By Department Payment
- 140.512 Utilization Control
- 140.513 Notification of Change in Resident Status
- 140.514 Certifications and Recertifications of Care (Repealed)
- 140.515 Management of Recipient Funds – Personal Allowance Funds
- 140.516 Recipient Management of Funds

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140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination

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140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
140.579	Specialized Living Centers
140.580	Mandated Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.642	Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts

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140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section	
140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND
REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)
140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Section

140.990	Primary Care Case Management Program
140.991	Primary Care Provider Participation Requirements
140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
140.997	Payment for Services

SUBPART J: ALTERNATE PAYEE PARTICIPATION

Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee

SUBPART K: MANDATORY MCO ENROLLMENT

140.1010	Mandatory Enrollment in MCOs
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SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

140.1300	Definitions
140.1310	Recovery of Money
140.1320	Penalties
140.1330	Enforcement
140.TABLE A	Criteria for Non-Emergency Ambulance Transportation
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule (Repealed)

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140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940

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thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990;

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amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment

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suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective

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September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective

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November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days;

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emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. _____, effective _____.

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-Based Organized Clinics
 - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (e), as appropriate.
 - 2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.
 - 3) ~~Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).~~
- b) Encounter Rate Clinics
 - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
 - 2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that will be billed as separate encounters for dates of service on or after January 1, 2011.
 - 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
- c) Rural Health Clinics

Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:

 - 1) Physician's Services, including covered services of nurse practitioners,

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nurse midwives and physician-supervised physician assistants. ~~Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).~~

- 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
- A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;
 - B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:
 - i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;
 - ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
 - iii) Psychologist;
 - iv) Licensed Clinical Social Worker; or
 - v) Licensed Clinical Professional Counselor;
 - C) the group size does not exceed 12 patients, regardless of payment source;

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- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;
- G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
- H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].

32) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).

43) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:

- A) medical case management;
- B) laboratory services;
- C) occupational therapy;
- D) patient transportation;
- E) pharmacy services;

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- F) physical therapy;
- G) podiatric services;
- H) speech and hearing services;
- I) x-ray services;
- J) health education;
- K) nutrition services;
- L) optometric services.

[54](#)) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.

[65](#)) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.

[76](#)) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services with the exception of services identified in subsections (c)([87](#)) and (c)([98](#)).

[87](#)) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:

- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
- B) The RHC must be listed as the payee on the claim;

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- C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 98) Effective July 1, 2013, an RHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
 - B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- d) Federally Qualified Health Centers
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. ~~Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).~~
 - 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
 - A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or the Diagnostic and

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Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;

- B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:
- i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;
 - ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
 - iii) Psychologist;
 - iv) Licensed Clinical Social Worker; or
 - v) Licensed Clinical Professional Counselor;
- C) the group size does not exceed 12 patients, regardless of payment source;
- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;

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- G) [the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and](#)
- H) [group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act \[210 ILCS 45\] or the Specialized Mental Health Rehabilitation Act \[210 ILCS 48\].](#)

32) Other services for which separate encounters may be billed include dentists and behavioral health services as defined in Section 140.463(a).

43) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:

- A) medical case management;
- B) laboratory services;
- C) occupational therapy;
- D) patient transportation;
- E) pharmacy services;
- F) physical therapy;
- G) podiatric services;
- H) optometric services;
- I) speech and hearing services;
- J) x-ray services;
- K) health education;

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L) nutrition services.

[54](#)) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.

[65](#)) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.

[76](#)) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided with the exception of services identified in subsections (d)([87](#)) and (d)([98](#)).

[87](#)) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:

A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;

B) The FQHC must be listed as the payee on the claim;

C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.

[98](#)) Effective July 1, 2013, an FQHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:

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- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
 - B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- e) Maternal and Child Health Clinics
Payment shall be made to the Maternal and Child Health clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:
- 1) In the case of clinics described in Section 140.461(f)(1)(A) and (f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:
 - A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;
 - C) Regular immunizations for the prevention of childhood diseases;
 - D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;
 - E) Routine prenatal care, including risk assessment, for pregnant women; and
 - F) Specialty care as medically needed.
 - 2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are

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not necessarily limited to:

- A) Prenatal care, including risk assessment (one risk assessment per pregnancy);
 - B) All ambulatory treatment services deemed medically necessary, recommended, or prescribed by a physician as the result of the assessment; and
 - C) Services to pregnant women with diagnosed substance abuse or addiction problems.
- 3) In the case of clinics described in Section 140.461(f)(1)(D):
- A) Comprehensive medical and referral services.
 - B) Primary care services, which must include, but are not necessarily limited to:
 - i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - ii) regular immunizations for the prevention of childhood diseases; and
 - iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.
 - C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:
 - i) asthma,
 - ii) congenital heart disease,
 - iii) diabetes, and
 - iv) sickle cell anemia.

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- D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.
- f) School Based/Linked Health Clinics (Centers)
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(g):
- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
 - 2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Abandoned Residential Property Municipality Relief Program
- 2) Code Citation: 47 Ill. Adm. Code 381
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
381.107	Amendment
381.201	Amendment
381.202	Amendment
381.205	Amendment
- 4) Statutory Authority: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.31(a) of the Illinois Housing Development Act [20 ILCS 3805.7.31(a)]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments involve the administration of the Abandoned Residential Property Municipality Relief Program.
- 6) Published Studies or reports, and sources of underlying data, used to make 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 amendment contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not create, expand or modify a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Kristi S. Poskus
Legal Department
Illinois Housing Development Authority
401 N. Michigan Avenue, Suite 700

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Chicago, Illinois 60611

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Municipalities and counties throughout Illinois may receive grants under the program.
 - B) Reporting, bookkeeping or other procedures required for compliance: Quarterly reports documenting all expenses of program funds will be required.
 - C) Types of professional skills necessary for compliance: No new professional skills required.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was included on the July 2013 Regulatory Agenda.
- 15) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 500/5-25] No

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 381

ABANDONED RESIDENTIAL PROPERTY MUNICIPALITY RELIEF PROGRAM

SUBPART A: GENERAL RULES

Section:

- 381.101 Authority
- 381.102 Purpose and Objectives
- 381.103 Definitions
- 381.104 Compliance with Federal and State Law
- 381.105 Forms and Procedures for the Program
- 381.106 Fees and Charges
- 381.107 Authority Administrative Expenses
- 381.108 Amendment
- 381.109 Severability
- 381.110 Gender and Number
- 381.111 Non-Discrimination
- 381.112 Titles and Captions

SUBPART B: GRANTS TO MUNICIPALITIES AND COUNTIES

Section:

- 381.201 Grants to Municipalities and Counties
- 381.202 Abandoned Residential Property
- 381.203 Eligible Uses of Grant Funds
- 381.204 Application Cycle
- 381.205 Application Requirements
- 381.206 Review of Applications
- 381.207 Grant Administration
- 381.208 Funding of Grants
- 381.209 Reporting Requirements

AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.31(a) of the Illinois Housing Development Act [20 ILCS 3805/7.31(a)].

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SOURCE: Adopted at 37 Ill. Reg. 11327, effective July 3, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 381.107 Authority Administrative Expenses

Subject to approval of the Department of Revenue, the Authority shall be entitled to deduct from each Appropriation, subject to the annual receipt of funds, prior to making any Grants, an amount not to exceed 4% of each Appropriation for expenses associated with the administration of the Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the Program; expenses incurred in performing outreach activities and providing technical assistance to the Applicants; the use of the Authority's equipment for Program purposes; the cost of office space and utilities incurred in connection with the Program; and any other expenses incurred in the administration of the Program. The Authority shall maintain a detailed accounting of its administrative expenses, using the generally accepted accounting principles (GAAP) of the Financial Standards Board of the AmericanAmerican Institute of Certified Public Accountants as contained in the publication entitled AICPA Professional Standards, 1211 Avenue of the Americas, New York NY 10036-8775 (June 2012, no later editions are incorporated). These records shall be available to the public for review.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: GRANTS TO MUNICIPALITIES AND COUNTIES

Section 381.201 Grants to Municipalities and Counties

The Authority shall distribute funds from annual Appropriations, subject to the annual receipt of funds, in accordance with the following priorities:

- a) To the Authority for its administrative expenses.
- b) After distributing the amount necessary for the purposes of subsection (a), the Authority shall make Grants to municipalities and counties for use in connection with Abandoned Residential Property as follows:

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- 1) 30% of the moneys in the Fund that have been appropriated, subject to the annual receipt of funds, shall be used to make Grants to municipalities in the County of Cook (other than the City) and to the County of Cook.
- 2) 25% of the moneys in the Fund that have been appropriated, subject to the annual receipt of funds, shall be used to make Grants to the City of Chicago.
- 3) 30% of the moneys in the Fund that have been appropriated, subject to the annual receipt of funds, shall be used to make Grants to the municipalities in the Collar Counties and to the Collar Counties.
- 4) 15% of the moneys in the Fund that have been appropriated, subject to the annual receipt of funds, shall be used to make Grants to municipalities in the State (other than the municipalities in the County of Cook and the Collar Counties), and to the other counties in the State (other than the County of Cook and the Collar Counties). The Grants made pursuant to this subsection (b)(4) shall be based on:
 - A) areas of greatest need within these countries, which shall be determined, to the extent practicable, proportionately on the amount of fees paid to the respective clerks of the court in the affected counties; and
 - B) any other factors as deemed appropriate by the Authority.
- c) Where the jurisdiction of a municipality is included within more than one of the geographic areas set forth in subsection (b), the Authority may elect to fully fund the Application from one of the relevant geographic areas.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 381.202 Abandoned Residential Property

Abandoned Residential Property~~residential property~~ shall mean residential real estate that:

- a) Either:

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- 1) Is not occupied by any mortgagor or lawful occupant as a principal residence; or
 - 2) Contains an incomplete structure if the real estate is zoned for residential development, when the structure is empty or otherwise uninhabited and is in need of maintenance, repair or securing; and
- b) With respect to which, either:
- 1) Two or more of the following conditions are shown to exist:
 - A) Construction was initiated on the property and was discontinued prior to completion, leaving a building unsuitable for occupancy, and no construction has taken place in 6 months;
 - B) Multiple windows on the property are boarded up, closed off or smashed through, broken off or unhinged, or multiple window panes are broken and unrepaired;
 - C) Doors on the property are smashed through, broken off, unhinged or continuously unlocked;
 - D) The property has been stripped of copper or other materials, or interior fixtures to the property have been removed;
 - E) Gas, electrical or water services to the entire property have been terminated;
 - F) One or more written statements of the mortgagor or the mortgagor's personal representative or assigns, including documents of conveyance, indicate a clear intent to abandon the property;
 - G) Law enforcement officials have received at least one report of trespassing or vandalism or other illegal acts being committed at the property in the last 6 months;

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- H) The property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal or county authority or a court of competent jurisdiction;
 - I) The local police, fire or code enforcement authority has requested the owner or other interested or authorized party to secure or winterize the property due to the local authority declaring the property to be an imminent danger to the health, safety and welfare of the public;
 - J) The property is open and unprotected and in reasonable danger of significant damage due to exposure to the elements, vandalism or freezing; or
 - K) Other evidence indicates a clear intent to abandon the property; or
- 2) The real estate is zoned for residential development and is a vacant lot that is in need of maintenance, repair and securing.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 381.205 Application Requirements

Each Application shall include the information required by this Section and any additional information the Authority may require to promote the efficient administration of the Program.

- a) Qualifications. Each Applicant shall document qualifications to complete the Program activities. These qualifications shall without limitation include the following:
 - 1) The applicant is a county or municipality;
 - 2) The Applicant has the experience or expertise to manage the activities listed in Section 381.203 for which grant funds will be utilized;
 - 3) The Applicant has demonstrated its capacity for effective fiscal management. This is typically proven through a third-party audit; and
 - 4) The Applicant is willing and able to abide by all program requirements.

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- b) Applicant's Capacity. Each Applicant shall document its capacity to administer Program funds for Eligible Uses.
- c) Activities to be Undertaken. Each Applicant shall list which Eligible Uses are to be undertaken with Program funds, including, without limitation, those activities outlined in Section ~~381~~385.203.
- d) Time for Expending. Each Applicant shall include a budget and timeline schedule for performing the Eligible Uses of Program funds outlined in the Application.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Youth Recreation Corps Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3075
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3075.10	Amendment
3075.20	Amendment
3075.30	Amendment
3075.40	Amendment
3075.50	Amendment
3075.60	Amendment
3075.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 8 of the Illinois Veteran, Youth and Young Adult Conservation Jobs Act [525 ILCS 50/8]
- 5) A Complete Description of the Subjects and Issues Involved: Due to remaining available State Funds for Fiscal Year 2013, Governor Quinn has determined that this grant program should be funded. The implementation of this program will provide a valuable opportunity for employment of Illinois youth between the ages of 14-18 as well as summer recreational activities for children of all ages.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3075.10	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.20	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.30	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.40	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.50	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.60	Amendment	37 Ill. Reg. 8953, June 28, 2013
3075.70	Amendment	37 Ill. Reg. 8953, June 28, 2013
- 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: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Shelly Knuppel, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: 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 2 most recent regulatory agendas because: the need for the amendment was not known when the most recent Regulatory Agenda was drafted.

The full text of this proposed rulemaking begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
 SUBCHAPTER g: GRANTS

PART 3075
 ILLINOIS YOUTH RECREATION CORPS GRANT PROGRAM

Section

3075.10	Definitions
3075.20	<u>Grant</u> Program Objective
3075.30	Eligibility Requirements
3075.40	Eligible Project Costs, Payments and Compliance Requirements
3075.50	General Procedures for Grant Applications and Awards
3075.60	Project Evaluation Priorities
3075.70	Employment Criteria
3075.80	Program Information/Contact

AUTHORITY: Implementing and authorized by Section 8 of the Illinois Veteran, Youth and Young Adult Conservation Jobs Act [525 ILCS 50/8].

SOURCE: Emergency rule adopted at 35 Ill. Reg. 10967, effective July 8, 2011, for a maximum of 150 days; emergency expired November 20, 2011; adopted at 36 Ill. Reg. 11189, effective July 3, 2012; emergency amendment at 37 Ill. Reg. 8953, effective June 13, 2013, for a maximum after 150 days; amended at 37 Ill. Reg. _____, effective _____.

Section 3075.10 Definitions

Department – Means the Department of Natural Resources.

Hourly Rate –

The rate of payment to youth employees hired under a grant issued under this Part employed shall not be lower than the current ~~Illinois~~ minimum wage rate established by the Minimum Wage Law [820 ILCS 105].

The rate of payment to managing supervisors shall not be lower than the current minimum wage rate established by the Minimum Wage Law plus \$2.00 per hour.

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The hourly rates established in this definition, and may be adjusted higher, as determined by the Department, if funds are available. Any adjustment beyond the minimum wage rate shall be identified by the Department in the grant application and grant contract.

Local Sponsor – Means any unit of local government or not-for-profit entity that can make available for a summer conservation or recreation program park lands, conservation or recreational lands or facilities, equipment, materials, administration, supervisory personnel, etc.

Managing Supervisor – Means an enrollee in the Illinois Youth Recreation Corps who is selected by the local sponsor to supervise the activities of the youth employee enrollees working on the conservation or recreation project.

Not-for-Profit Entities – Entities eligible for participation in this grant program must be recognized and/or incorporated in Illinois as not-for-profit under the provisions of the General Not For Profit Corporation Act of 1986 [805 ILCS 105], and must possess current status as exempt from taxation under section 501(c) or 501(d) of the United States Internal Revenue Code. Not-for-profit entities ~~or corporations~~ without current tax-exempt status are not eligible.

Wages – Only the hourly rate for personal services paid to the employed youth (from which applicable taxes shall be withheld). "Wages" does not include the employer's contribution or portion of any tax.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 3075.20 Grant Program Objective

- a) The Illinois Youth Recreation Corps grant program provides grants to be disbursed by the Department to eligible local sponsors to provide wages to youth working, operating and instructing in conservation or recreational programs ~~for the benefit of other youth~~.
- b) The conservation or recreational programs shall ~~provide opportunities for local youth of all age levels and shall~~ include, but are not limited to, the coordination and teaching of natural resource conservation and management, physical

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activities, ~~arts and handiwork~~, and learning activities directly related to natural resource conservation management or recreation.

- c) Local sponsors may charge a user fee for participation in the conservation or recreational program, as long as those fees are designed to promote as much community involvement as possible ~~by the children of the community~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 3075.30 Eligibility Requirements

a) To be eligible for this grant program, local sponsors must have the ability to provide suitable facilities, materials and management staff for summer conservation or recreational programs ~~activities for youth~~ within the local community.

- b) ~~Local sponsors must be units of local government or not for profit entities. Not for profit entities must have a current 501(c) status.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 3075.40 Eligible Project Costs, Payments and Compliance Requirements

- a) Grant assistance is available to provide wages for managing supervisors and to eligible youth supervisors, instructors, instructional aides and maintenance personnel hired by the local sponsor to conduct conservation or recreational programs. Local sponsors may fill or replace any Department approved managing supervisor or youth position during the grant program with a new or different managing supervisor or youth employee.

- b) Payments will be provided to the local sponsor upon completion of a grant agreement with the Department in a lump sum determined by the Department, but not to exceed 480 hours (8 hours per day multiplied by 60 days) multiplied by the hourly rate for each approved managing supervisor and eligible youth position to be hired by the local sponsor.

- c) Pursuant to this program, grant payments may only be used to pay wages for managing supervisors and eligible youth hired by local sponsors. Further, the ratio of youth employees to a managing supervisor must not be less than 10 to 1

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for any local sponsor with a total number of youth employees of 10 or more. Any local sponsor program with a total number of youth employees of less than 10 must be limited to one managing supervisor.

- d) Any grant funds provided to the local sponsor that are not expended on wages for managing supervisors or eligible youth shall be returned to the Department on or before October 31 of the year in which the grant agreement is executed.
- e) By October 31 of the year in which the grant agreement is executed, the local sponsor shall provide the Department with a report fully documenting the wages paid to all managing supervisors and eligible youth pursuant to the program grant.
- f) All financial records on approved grants must be maintained and retained, in accordance with the Grant Funds Recovery Act [30 ILCS 705] and the State Records Act [5 ILCS 160] by the local sponsor for possible State audit after final grant payment is made by the Department.
- g) The local sponsor shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims arising under, through, or by virtue of the administration of this program.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 3075.50 General Procedures for Grant Applications and Awards

- a) ~~Applications~~Grant applications for assistance under this grant program will be due no later than 30 days after the public announcement by the Department that applications are to be accepted. Failure to submit a completed application to the Department by the specified application deadline will result in ~~project~~ rejection of an application for that grant cycle.
- b) Necessary application materials and instructions are available through the Department (see Section 3075.80). Awarding of grants will be on a competitive basis and will be made under authority of the Director of the Department of Natural Resources.

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- c) ~~Grant applicants~~~~Project grant applications~~ are required to use the Department's Grant Application Form and will consist of the following basic components, at a minimum:
- 1) applicant's name, address and telephone number;
 - 2) the name, address and telephone number of an individual representative of the applicant who is personally responsible for the grant administration by the applicant, including compliance with the requirements of this Part and the terms of the grant agreement;
 - 3) a detailed description of the proposed conservation or recreational program~~project~~ and the role of eligible youth in ~~operating~~ the program~~project~~, including the number of youth and managing supervisor positions requested;
 - 4) program~~project~~ location;
 - 5) a statement of the need for the program~~project~~ in the local community; ~~with emphasis on the youth that would be served by the recreational project;~~
 - 6) a description of the local resources available to successfully operate the recreational program~~project~~, including but not limited to facilities, materials and management; and
 - 7) information on youth employment levels in the local community.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 3075.60 Project Evaluation Priorities

Application for grants will be evaluated on the basis of conservation or recreational program content, location, need, minority percentage of population served, Equalized Assessed Valuation amount for property values in the local applicant's service area, local commitment of resources, acres managed by applicant and consistency with the youth employment purpose of the Act.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 3075.70 Employment Criteria

- a) The local sponsor shall make public notification of the availability of jobs for managing supervisors and eligible youth in the Illinois Youth Recreation Corps by the means of newspapers, electronic media, educational facilities, units of local government and Department of Employment Security offices.
- b) Employment applications shall be submitted directly to the local sponsor. The local sponsor shall make all employment decisions.
- c) Employment is limited to:
- 1) citizens of the State of Illinois;
 - 2) youth who, at the time of enrollment, are ~~14-16~~ through ~~18-19~~ years of age;
 - 3) youth who have skills that can be utilized in the summer conservation or recreational program;
 - 4) managing supervisors, who shall be 19 years of age or older;
 - 5) managing supervisors who have skills that can be utilized in supervising the activities of the youth employees working on the conservation or recreational program;
 - 64) the length of the program specified each year by the Department, but in no case ~~no~~ more than 60 working days occurring during the months of June, July and August;
 - 75) youth who are not currently employed by the local sponsor; and
 - 86) the total number of approved managing supervisor and youth positions at all times.
- d) Managing supervisors and youth ~~Youth~~ hired by the local sponsor shall be paid the hourly rate as defined in Section 3075.10 ~~State of Illinois minimum hourly wage~~.

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- e) Pursuant to this program, the local sponsor is responsible for any and all legal requirements pertaining to the employment of managing supervisors and eligible youth. This specifically includes, but is not limited to, employer's share of any taxes arising from the employment of managing supervisors and eligible youth.
- f) Managing supervisor and youth~~Youth~~ hired by the local sponsor pursuant to this program are not classified as employees of the State or the local sponsor for purposes of contributions to the State Employees' Retirement System or any other public employee retirement system.
- g) Local sponsors must hire all managing supervisors and youth as employees. Managing supervisors and youth~~Youth~~ cannot be hired as independent contractors.
- h) Local sponsors must pay all managing supervisors and youth employees through a payroll system that produces documentation showing all such payments. Cash payments do not meet this requirement for documentation.
- i) Local sponsors are responsible for complying with the terms and conditions of the Illinois Child Labor Law [820 ILCS 205]. The local sponsor should contact the Illinois Department of Labor if it has any questions about compliance with this law.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Veteran Recreation Corps Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3080
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3080.10	New
3080.20	New
3080.30	New
3080.40	New
3080.50	New
3080.60	New
3080.70	New
3080.80	New
- 4) Statutory Authority: Implementing and authorized by Section 7.5 of the Illinois Veteran, Youth and Young Adult Conservation Jobs Act [525 ILCS 50/7.5]
- 5) A Complete Description of the Subjects and Issues Involved: Due to remaining available State Funds for Fiscal Year 2013, Governor Quinn has determined that this grant program should be funded. The implementation of this program will provide a valuable opportunity for employment of Illinois veterans in operating and instructing conservation and recreational programs.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3080.10	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.20	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.30	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.40	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.50	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.60	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.70	New Section	37 Ill. Reg. 8963; June 28, 2013
3080.80	New Section	37 Ill. Reg. 8963; June 28, 2013

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Shelly Knuppel, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: 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 2 most recent regulatory agendas because the need for the amendment was not known when the most recent Regulatory Agenda was published.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED RULES

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3080
ILLINOIS VETERAN RECREATION CORPS GRANT PROGRAM

Section

3080.10	Definitions
3080.20	Grant Program Objective
3080.30	Eligibility Requirements
3080.40	Eligible Project Costs, Payments and Compliance Requirements
3080.50	General Procedures for Grant Applications and Awards
3080.60	Project Evaluation Priorities
3080.70	Employment Criteria
3080.80	Program Information/Contact

AUTHORITY: Implementing and authorized by Section 7.5 of the Illinois Veteran, Youth, and Young Adult Conservation Jobs Act [525 ILCS 50/7.5].

SOURCE: Emergency rule adopted at 37 Ill. Reg. 8963, effective June 13, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. _____, effective _____.

Section 3080.10 Definitions

Department – The Department of Natural Resources.

Hourly Rate –

The rate of payment to veteran employees hired under a grant issued under this Part shall not be lower than the current minimum wage rate established by the Minimum Wage Law [820 ILCS 105].

The rate of payment to managing supervisors shall not be lower than the current minimum wage rate established by the Minimum Wage Law plus \$2.00 per hour.

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The hourly rates established in this definition may be adjusted higher, as determined by the Department, if funds are available. Any adjustment beyond the minimum wage rate shall be identified by the Department in the grant application and grant agreement.

Local Sponsor – Any unit of local government or not-for-profit entity that can make available for a conservation or recreational program park lands, conservation or recreational lands or facilities, equipment, materials, administration, supervisory personnel, etc.

Managing Supervisor – An enrollee in the Illinois Veteran Recreation Corps who is selected by the local sponsor to supervise the activities of the veteran employee enrollees working on the conservation or recreational program. Managing supervisors are required to be veterans.

Not-for-Profit Entities – Entities eligible for participation in this grant program must be recognized and/or incorporated in Illinois as not-for-profit under the provisions of the General Not For Profit Corporation Act of 1986 [805 ILCS 105] and must possess current status as exempt from taxation under section 501(c) or 501(d) of the United States Internal Revenue Code (26 USC 501). Not-for-profit entities without current tax-exempt status are not eligible.

Term of the Grant Program – The 6 month period identified by the local sponsor in his/her grant application as the period of time in which veterans may be employed by the local sponsor under this grant program. The term of the grant program does not have to be a consecutive 6 month period, but must end no later than 12 months after the grant execution date.

Veteran – An Illinois resident who has served or is currently serving as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of a Reserve Component of the United States Armed Forces.

Wages – Only the hourly rate for personal services paid to the employed veterans (from which applicable taxes shall be withheld). "Wages" does not include the employer's contribution or portion of any tax.

| Section 3080.20 Grant Program Objective

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- a) The Illinois Veteran Recreation Corps grant program provides grants to be disbursed by the Department to eligible local sponsors to provide wages to veterans working, operating and instructing in conservation or recreational programs.
- b) The conservation or recreational programs shall include, but are not limited to, the coordination and teaching of natural resource conservation and management, physical activities, and learning activities directly related to natural resource conservation management or recreation.
- c) Local sponsors may charge a user fee for participation in the conservation or recreational program, as long as those fees are designed to promote as much community involvement as possible.

Section 3080.30 Eligibility Requirements

To be eligible for this grant program, local sponsors must have the ability to provide suitable facilities, materials and management staff for conservation or recreational programs within the local community.

Section 3080.40 Eligible Project Costs, Payments and Compliance Requirements

- a) Grant assistance is available to provide wages for managing supervisors and eligible veterans hired by the local sponsor to conduct conservation or recreational programs. Local sponsors may fill or replace any Department approved managing supervisor or veteran position during the grant program with a new or different managing supervisor or veteran employee.
- b) Payments will be provided to the local sponsor upon completion of a grant agreement with the Department in a lump sum determined by the Department, but not to exceed 1040 hours (40 hours per week multiplied by 26 weeks) multiplied by the hourly rate for each approved managing supervisor and eligible veteran position to be hired by the local sponsor.
- c) Pursuant to this program, grant payments may only be used to pay wages for managing supervisors and eligible veterans hired by local sponsors. Further, the ratio of veteran employees to a managing supervisor must not be less than 10 to 1 for any local sponsor with a total number of veteran employees of 10 or more.

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Any local sponsor program with a total number of veteran employees of less than 10 must be limited to one managing supervisor.

- d) Any grant funds provided to the local sponsor that are not expended on wages for managing supervisors or eligible veterans shall be returned to the Department on or before the last day of the second month after the term of the grant program has ended. The Department will identify this date in the grant agreement with the local sponsor.
- e) By the last day of the second month after the term the grant program has ended, the local sponsor shall provide the Department with a report fully documenting the wages paid to all managing supervisors and eligible veterans pursuant to the program grant. The Department will identify this date in the grant agreement with the local sponsor.
- f) All financial records on approved grants must be maintained and retained in accordance with the Grant Funds Recovery Act [30 ILCS 705] and the State Records Act [5 ILCS 160] by the local sponsor for possible State audit after final grant payment is made by the Department.
- g) The local sponsor shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses or claims arising under, through, or by virtue of the administration of this program.

| Section 3080.50 General Procedures for Grant Applications and Awards

- a) Applications for assistance under this grant program will be due no later than 30 days after the public announcement by the Department that applications are to be accepted. Failure to submit a completed application to the Department by the specified application deadline will result in rejection of an application for that grant cycle.
- b) Necessary application materials and instructions are available through the Department (see Section 3080.80). Awarding of grants will be on a competitive basis and will be made under authority of the Director of the Department of Natural Resources.

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- c) Grant applicants are required to use the Department's Grant Application Form and will consist of the following basic components, at a minimum:
- 1) applicant's name, address and telephone number;
 - 2) the name, address and telephone number of an individual representative of the applicant who is personally responsible for the grant administration by the applicant, including compliance with the requirements of this Part and the terms of the grant agreement;
 - 3) a detailed description of the proposed conservation or recreational program and the role of eligible veterans in the program, including the number of veteran and managing supervisor positions requested;
 - 4) program location;
 - 5) a statement of the need for the program in the local community;
 - 6) a description of the local resources available to successfully operate the program, including but not limited to facilities, materials and management; and
 - 7) information on employment levels in the local community.

Section 3080.60 Project Evaluation Priorities

Applications for grants will be evaluated on the basis of conservation or recreational program content, location, need, minority percentage of population served, Equalized Assessed Valuation amount for property values in the local applicant's service area, local commitment of resources, acres managed by applicant and consistency with the veteran employment purpose of the Act.

Section 3080.70 Employment Criteria

- a) The local sponsor shall make public notification of the availability of jobs for managing supervisors and eligible veterans in the Illinois Veteran Recreation Corps by means of newspapers, electronic media, educational facilities, units of local government, Illinois Department of Veterans' Affairs offices and Department of Employment Security offices.

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- b) Employment applications shall be submitted directly to the local sponsor. The local sponsor shall make all employment decisions.
- c) Employment is limited to:
 - 1) citizens of the State of Illinois;
 - 2) those who, at the time of enrollment, are veterans and unemployed;
 - 3) those who, for veteran employees, have skills that can be utilized in the summer conservation or recreational program;
 - 4) those who, for managing supervisors, have skills that can be utilized in supervising the activities of the veteran employees working on the conservation or recreation program;
 - 5) the length of the program specified each year by the Department, but in no case longer than 6 total months nor greater than the maximum number of hours as determined by the Department; and
 - 6) the total number of approved managing supervisor and veterans positions at all times.
- d) Managing supervisors and veterans hired by the local sponsor shall be paid the hourly rate as defined in Section 3080.10.
- e) Pursuant to this program, the local sponsor is responsible for any and all legal requirements pertaining to the employment of managing supervisors and eligible veterans. This specifically includes, but is not limited to, employer's share of any taxes arising from the employment of managing supervisors and eligible veterans.
- f) Managing supervisors and veterans hired by the local sponsor pursuant to this program are not classified as employees of the State or the local sponsor for purposes of contributions to the State Employees' Retirement System or any other public employee retirement system.

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- g) Local sponsors must hire all managing supervisors and veterans as employees. Managing supervisors and veterans cannot be hired as independent contractors.
- h) Local sponsors must pay all managing supervisors and veteran employees through a payroll system that produces documentation showing all payments. Cash payments do not meet this requirement for documentation.

Section 3080.80 Program Information/Contact

For information on the Illinois Veteran Recreation Corps Grant Program, contact:

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

Telephone: 217/782-7481
FAX: 217/782-9599
www.dnr.illinois.gov

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Attorney General's Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1300.1002	Amendment
1300.2025	Amendment
1300.2580	Amendment
1300.5037	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500/1-30(a)]
- 5) A Complete Description of the Subjects and Issues Involved: The Attorney General's Procurement Rules are being updated to address changes in the Illinois Procurement Code made by Public Act 97-895, effective 8/3/12. The proposed amendments extend the timeframe for the State Purchasing Officer to obtain certification by the Universal Public Purchasing Certification Council, modify the notice and hearing requirements for sole source procurements, require the identification of work to be provided by subcontractors as part of competitive sealed proposals, and modify the provisions for verifying compliance by business entities required to register with the State Board of Elections.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act.

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12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Lynn Patton
Rules Coordinator
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706

217/524-1504

Melissa Mahoney
Deputy Chief of Staff, Administration
Office of the Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601

312/814-3950

All written comments filed within 45 days after the date of publication of this Notice will be considered.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses doing business with or seeking to do business with the Attorney General's Office would be marginally affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None, beyond those already required by small businesses.
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XX: ATTORNEY GENERAL

PART 1300
ATTORNEY GENERAL'S PROCUREMENT

SUBPART A: GENERAL

Section	Title
1300.01	Title
1300.05	Policy
1300.08	Illinois Procurement Code
1300.10	Application
1300.15	Definitions of Terms Used in This Part
1300.25	Property Rights
1300.30	Contracts Necessary to Prepare for Anticipated Litigation

SUBPART B: PROCUREMENT RULES

Section	Title
1300.525	Procurement by DCMS Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	Title
1300.1002	Conduct and Oversight of Procurements
1300.1010	Construction

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Title
1300.1510	Publicizing Procurement Actions
1300.1560	Supplemental Notice
1300.1570	Error in Notice
1300.1580	Direct Solicitation

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SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION – GENERAL

Section

- 1300.2005 General Provisions
- 1300.2010 Competitive Sealed Bidding
- 1300.2012 Multi-Step Sealed Bidding
- 1300.2015 Competitive Sealed Proposals
- 1300.2020 Small Purchases
- 1300.2025 Sole Source Procurement
- 1300.2030 Emergency Procurements
- 1300.2035 Competitive Selection Procedures for Professional and Artistic Services
- 1300.2036 Other Methods of Source Selection
- 1300.2037 Tie Bids and Proposals
- 1300.2038 Mistakes
- 1300.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

- 1300.2043 Suppliers
- 1300.2044 Vendor List/Required Use
- 1300.2045 Prequalification
- 1300.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

- 1300.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

- 1300.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section

- 1300.2055 Types of Contracts

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SUBPART J: DURATION OF CONTRACTS

Section
1300.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section
1300.2560 Prevailing Wage
1300.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section
1300.2800 All Costs Included

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1300.4005 Real Property Leases and Capital Improvement Leases
1300.4010 Renewal
1300.4015 Method of Source Selection
1300.4020 Request for Information and Review of Proposed Leases
1300.4025 Lease Requirements
1300.4045 Emergency Lease Requirements

SUBPART O: PREFERENCES

Section
1300.4505 Procurement Preferences
1300.4510 Resident Bidder Preference
1300.4530 Correctional Industries
1300.4535 Sheltered Workshops for the Disabled
1300.4540 Gas Mileage
1300.4545 Small Business

SUBPART P: ETHICS

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Section

1300.5013	Conflicts of Interest
1300.5015	Negotiations for Future Employment
1300.5020	Exemptions
1300.5030	Revolving Door
1300.5035	Disclosure of Financial Interests and Potential Conflicts of Interest
1300.5037	Vendor Registration, Certification and Prohibition on Political Contributions
1300.5039	Communications Related to Procurement

SUBPART Q: CONCESSIONS

Section

1300.5310	Concessions
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SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section

1300.5510	Complaints Against Vendors or Subcontractors
1300.5520	Suspension
1300.5530	Settlement and Resolution of Contract and Breach of Contract Controversies
1300.5540	Violation of Law or Rule
1300.5550	Protests
1300.5555	Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section

1300.6010	Supply Management and Dispositions
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SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section

1300.6500	General
1300.6510	OAG Use of Other Contracts
1300.6520	No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

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Section

1300.7000	Severability
1300.7010	Government Furnished Property
1300.7015	Inspections
1300.7020	Records and Audits
1300.7025	Written Determinations
1300.7030	No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500/1-30(a)].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 12013, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 15192, effective August 15, 1998; amended at 23 Ill. Reg. 8971, effective July 28, 1999; amended at 36 Ill. Reg. 11974, effective July 13, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART C: PROCUREMENT AUTHORITY

Section 1300.1002 Conduct and Oversight of Procurements

- a) Chief Procurement Officer. The Attorney General shall designate a Chief Procurement Officer (CPO) for purposes of the Code and this Part. The CPO may conduct any or all procurements on behalf of the OAG. The CPO shall have at least 5 years of experience in State budgeting or procurement activities, or shall be a certified professional public buyer or certified public purchasing officer. The CPO shall be a resident of the State of Illinois and shall owe a fiduciary duty to the State. The CPO is responsible for signing all written award determination letters stating the reasoning for any contract award decision. The CPO shall perform other duties as required by law.
- b) State Purchasing Officer. The Attorney General may appoint one or more State Purchasing Officers (SPO) to conduct procurement in accordance with the terms of the appointment and this Part. The employee performing the duties of the SPO must be certified as a professional public buyer or a public purchasing officer by the Universal Public Purchasing Certification Council within ~~30~~48 months after appointment. In the absence of an SPO, the CPO may designate a temporary acting SPO. The SPO shall exercise procurement authority at the direction of the

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CPO, and the decisions of an SPO are subject to review by the CPO. The SPO may enter into contracts for the OAG. The SPO shall perform other duties as required by law and may only be removed by the Attorney General for cause.

- c) Procurement Policy and Compliance Monitoring Board. The Attorney General shall appoint an OAG Procurement Policy and Compliance Monitoring Board (OAG PPCMB). The OAG PPCMB shall consist of 5 members. In making appointments to the OAG PPCMB, the Attorney General shall consider an individual's knowledge and experience in State government procurements and operations, including but not limited to certification as a professional public buyer or public purchasing officer by the Universal Public Purchasing Council. The members shall receive no additional compensation for serving on the OAG PPCMB. Except as provided in subsection (d), the OAG PPCMB shall:
- 1) be authorized to review, oversee, comment upon and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction and capital improvements procured by the OAG;
 - 2) attend any procurement meetings and access relevant files and reports;
 - 3) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In such an event, the OAG PPCMB is to recommend action and give its recommendations to the CPO and Attorney General;
 - 4) report to the Inspector General and Attorney General whenever the OAG PPCMB has cause to believe there has been a violation of the Code or this Part;
 - 5) communicate directly with the Attorney General on all matters related to procurement;
 - 6) report to the CPO regarding outstanding procurement problems;
 - 7) ensure transparency and compliance with procurement laws;

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- 8) report findings of waste to OAG divisions. If a division does not correct circumstances causing the waste, the OAG PPCMB shall report to the CPO and the Inspector General; and
 - 9) perform other duties as required by law.
- d) Chief Internal Auditor. The Attorney General shall appoint a Chief Internal Auditor. The auditor must have a Bachelor's degree, and must be a certified internal auditor, certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. Any Chief Internal Auditor appointed on or after July 1, 2010 shall be appointed for a period of 5 years and may only be removed for cause. The Chief Internal Auditor shall report directly to the Attorney General. Subject to the approval of the Attorney General, and consistent with the Fiscal Control and Internal Auditing Act [20 ILCS 10], the Chief Internal Auditor shall:
- 1) direct the internal audit functions and activities of the OAG;
 - 2) prepare audit reports and assess program goals;
 - 3) be responsible for the preparation of an annual audit plan for submission to, and subject to the approval of, the Attorney General; and
 - 4) perform other duties as required by law.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION – GENERAL

Section 1300.2025 Sole Source Procurement

- a) Application
The provisions of this Section apply to procurement from a sole source unless the estimated amount of the procurement is within the limit set in Section 1300.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1300.2030 (Emergency Procurements).
- b) Conditions for Use of Sole Source Procurement

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Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
 - 2) a sole supplier's items are needed for trial use or testing;
 - 3) a sole supplier's item is to be procured for commercial resale;
 - 4) public utility regulated services are to be procured;
 - 5) the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent;
 - 6) the procurement of the media for advertising;
 - 7) the procurement of art or entertainment services; and
 - 8) changes to existing contracts (subsection (c)).
- c) Changes
- 1) Changes to existing contracts germane to the original contract, which are necessary or desirable to complete the project, and which can be best accomplished by the contract holder, may be procured under this provision if the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.
 - 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1300.2020, or that is an emergency as defined in Section 1300.2030, may be made in accordance with procedures governing those Sections and need not comply with these

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sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

- d) Publication Procurement Officer to Determine
Before entering into a sole source contract, the CPO shall publish a written description of intent to enter into a sole source contract along with the sole source procurement justification, a description of the goods or services to be procured, the intended sole source contractor, and notice that any public hearing requested under this Section will be held on the 15th day after publication of the notice (stating the date, time and place of the potential public hearing) or on the next business day, if the 15th day after publication is a weekend or a State holiday. The notice shall be posted in the Bulletin at least 14 days before a sole source contract is awarded.
- 1) ~~The determination as to whether a procurement shall be made as a sole source shall be made by the CPO after notice and a public hearing pursuant to Section 1300.5555. The determination and the basis for the determination shall be in writing. The Procurement Officer may specify the application of the determination and the duration of its effectiveness.~~
- 2) ~~Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by a written explanation as to why no other vendor will be suitable or acceptable to meet the need.~~
- e) Hearing
An interested party may submit a written request for a public hearing. Any hearing shall be conducted in accordance with the procedures set forth in Section 1300.5555.
- f) Negotiation in Sole Source Procurement
The Procurement Officer shall conduct negotiations, as appropriate, as to price, delivery, and terms, and shall maintain a record of sole source procurements showing:
- 1) the vendor's name;

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- 2) the amount and type of the contract;
- 3) a listing of the supplies, services, or construction procured under each contract; and
- 4) the identification number of the contract file.

gf) Prohibition Against Amending Contracts for Professional or Artistic Services Based on Sole Source

The provisions of this Part shall not apply to an amendment to a contract for professional or artistic services if:

- 1) there is an increase in the amount paid under the contract of more than 5% of the initial award; or
- 2) the term of the contract would be extended by a period not to exceed the time reasonably needed for a competitive procurement or 2 months, whichever is less.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART K: CONTRACT MATTERS

Section 1300.2580 Subcontractors

All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, either in its proposal or prior to award, the identity of the subcontractors that will be used in the performance of the contract and the general type of work to be performed by these subcontractors, as well as the amounts expected to be paid to each subcontractor.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART P: ETHICS

Section 1300.5037 Vendor Registration, Certification and Prohibition on Political Contributions

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- a) Introduction
Illinois law [10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37] (the statutes) restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the law. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.
- b) General Registration Requirements
 - 1) These requirements apply to contracts, bids and proposals that are subject to the Code and this Part;
 - A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.
 - B) Bids and proposals include pending bids and proposals.
 - C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, whose aggregate value of bids/proposals for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/proposals exceeds \$50,000.
 - D) This value is calculated on a calendar-year basis.
 - 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.
 - 3) An "executive employee" means:

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- A) the President, Chairman of the Board, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity.
- B) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.
- c) Bids and Proposals
- 1) The CPO, or his or her designee, shall determine whether a business entity is required to register with SBEL and, if so, whether the business entity is in compliance with the registration requirements on the date the bid or proposal is due.~~A copy of the Registration Certificate must be submitted with bids/proposals.~~
- 2) If the CPO determines that a business entity is required to register with SBEL and the business entity is not in compliance with the registration requirements, then the CPO shall not accept the business entity's bid or proposal.~~If the Registration Certificate is not timely submitted, the OAG will reject the bid/proposal unless the absence of the Certificate is the result of delay or error by the OAG. In all circumstances, the Certificate will be required before making an award.~~
- d) Contracts
- A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the vendor certifies it is not required to register.
- 1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds

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\$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

- 2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000.
- 3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.
- 4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 5) Contract certification required by the statutes shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Code and those written, two-party contracts that need not be filed with the Comptroller. The OAG may require written confirmation of the rule-imposed certification at any time.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures For Transportation Workplace Drug and Alcohol Testing Programs
- 2) Code Citation: 92 Ill. Adm. Code 340
- 3) Section Number: 340.1010 Proposed 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) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is updating the edition date of 49 CFR 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, to 10/1/12, the most recent edition of 49 CFR and, also, incorporating by reference the federal rulemaking adopted at 77 FR 60318, 10/1/12. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(77 FR 60318, October 3, 2012) Amends 49 CFR 40 so that laboratories and Medical Review Officers are no longer required to consult with one another regarding the testing for the presence of morphine when the laboratory confirms the presence of 6-acetylmorphine (6-AM). Laboratories will no longer be required to report 6-AM results to the Office of Drug and Alcohol Policy Compliance.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking affects units of local government that employ drivers who are required to possess a commercial driver's license (CDL).
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses affected: This rulemaking affects small businesses that employ drivers who are required to possess a CDL.
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.

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14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 340
 PROCEDURES FOR TRANSPORTATION WORKPLACE
 DRUG AND ALCOHOL TESTING PROGRAMS

Section

340.1000 Purpose
 340.1010 Incorporation by Reference of 49 CFR 40

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 32 Ill. Reg. 10356, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 340.1010 Incorporation by Reference of 49 CFR 40

- a) The Department incorporates by reference 49 CFR 40 as that part was in effect on October 1, ~~2012, as amended by 77 FR 60318, October 3, 2012~~²⁰⁰⁶. No later amendments to or editions of 49 CFR 40 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~^{3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181}. The Federal Motor Carrier Safety Regulations 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>~~^{<http://www.dot.il.gov/safety.html>}.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Training Requirements
- 2) Code Citation: 92 Ill. Adm. Code 380
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
380.1010	Amend
380.1020	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]
- 5) A Complete Description of the Subjects and Issues Involved: At Section 380.1020, the Department is updating the edition date of 49 CFR 380, Special Training Requirements, to 10/1/2012, the most recent edition of 49 CFR. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the materials incorporated by reference.

At Section 380.1010, the Department is amending existing definitions and adding new definitions pursuant to corresponding federal definitions. The Department is also deleting "October 1, 2006" throughout this Section.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles.
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: These proposed amendments were not included on either of the two most recent agendas because the Department could not anticipate the timing of the need for the amendments.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 380
SPECIAL TRAINING REQUIREMENTS

Section

380.1000	Purpose
380.1010	Definitions
380.1020	Incorporation by Reference of 49 CFR 380

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 29 Ill. Reg. 19208, effective November 10, 2005; amended at 32 Ill. Reg. 10359, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 380.1010 Definitions

As used in this Part:

"Alcohol or alcoholic beverage" means:

Beer as defined in 26 USC 5052(a) (Internal Revenue Code of 1954);

Wine of not less than one-half of one per centum of alcohol by volume; or

Distilled spirits as defined in section 5002(a)(8) (~~of the~~ Internal Revenue Code of 1954). (49 CFR 383.5, ~~October 1, 2006~~)

"Classroom instructor" means a qualified longer combination vehicle (LCV) driver-instructor who provides knowledge ~~and~~ instruction that does not involve the actual operation of an LCV or its components. Instruction may take place in a parking lot, garage, or any other facility suitable for instruction. (49 CFR 380.105, ~~October 1, 2006~~)

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"Commercial driver's license" or "CDL" means a license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383, ~~to an individual~~ that authorizes the individual to operate a class of a commercial motor vehicle. (49 CFR 383.5, ~~October 1, 2006~~)

"Commercial learner's permit" or "CLP" means a permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383, that, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of a commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a CMV for which the holder's current CDL is not valid. (49 CFR 383.5)

"Commercial motor vehicle" or "CMV" means, for purposes of this Part and 92 Ill. Adm. Code 382 and 383, a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:—

Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit or units~~unit(s)~~ with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or

Is designed to transport 16 or more passengers, including the driver; or

Is of any size and is used in the transportation of hazardous materials as defined in this Section. (49 CFR 383.5, ~~October 1, 2006~~)

"Controlled substance" has the same meaning ascribed under 21 USC 802(6) and includes all substances listed on schedules I through V of 21 CFR 1308.11 through 1308.15, as they may be amended by the United States Department of Justice. (49 CFR 383.5)

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"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 383.5, ~~October 1, 2006~~)

"Disqualification" means any of the following three actions:

The suspension, revocation, or cancellation of a CLP or CDL by the state or jurisdiction of issuance.

Any withdrawal of a person's privileges to drive a CMV by a state or other jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

A determination by the Federal Motor Carrier Safety Administration ~~FMCSA~~ that a person is not qualified to operate a CMV under 49 CFR 391. (49 CFR 383.5, ~~October 1, 2006~~)

"Driver's license" means a license issued by a state or other jurisdiction to an individual that authorizes the individual to operate a motor vehicle on the highways. (49 ~~CFR~~ 383.5, ~~October 1, 2006~~)

"Employee" means any operator of a CMV, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors (while in the course of operating a CMV) who are either directly employed by or under lease to an employer. (49 CFR 383.5, ~~October 1, 2006~~)

"Employer" means any person (including the United States, a state, District of Columbia or a political subdivision of a state) ~~who~~ ~~that~~ owns or leases a CMV or assigns employees to operate such a vehicle. (49 CFR 383.5, ~~October 1, 2006~~)

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"Endorsement" means an authorization to an individual's CLP or CDL required to permit the individual to operate certain types of CMVs. (49 CFR 383.5, ~~October 1, 2006~~)

"Entry-level driver" means a driver with less than one year of experience operating a CMV with a CDL in interstate or intrastate commerce.

"Entry-level driver training" means training the CDL driver receives in driver qualification requirements, hours of service of drivers, driver wellness, and whistle blower protection as appropriate to the entry-level driver's current position in addition to passing the CDL test. (49 CFR 380.502, ~~October 1, 2006~~)

"Hazardous materials" means any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 or any quantity of a material listed as a select agent or toxin in 42 CFR 73. (49 CFR 383.5, ~~October 1, 2006~~)

"Longer combination vehicle" or "LCV" means any combination of a truck-tractor and two trailers or semi-trailers that operates on the highways of Illinois with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).

"LCV double" means an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers. (49 CFR 380.105, ~~October 1, 2006~~)

"LCV triple" means an LCV consisting of a truck-tractor in combination with three trailers and/or semi-trailers. (49 CFR 380.105, ~~October 1, 2006~~)

"Motor vehicle" means a vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power used on highways, except that this term does not include a vehicle, machine, tractor, trailer, or semi-trailer operated exclusively on a rail. (49 CFR 383.5, ~~October 1, 2006~~)

"Qualified LCV driver-instructor" means an instructor meeting the requirements contained in 49 CFR 380, subpart C. There are two types of qualified LCV driver-instructors: classroom instructor and skills instructor. (49 CFR 380.105, ~~October 1, 2006~~)

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"Skills instructor" means a qualified LCV driver-instructor ~~who~~ provides behind-the-wheel instruction involving the actual operation of an LCV or its components outside a classroom. (49 CFR 380.105; ~~October 1, 2006~~)

"State" (lower case) means a state of the United States and the District of Columbia. (49 CFR 383.5; ~~October 1, 2006~~)

"Tank vehicle" means any CMV that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons. (49 CFR 383.5; ~~October 1, 2006~~)

"Training institution" means any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. A motor carrier's training program for its drivers or an entity that exclusively offers services to a single motor carrier is not a training institution. (49 CFR 380.105; ~~October 1, 2006~~)

"Vehicle" means a motor vehicle unless otherwise specified. (49 CFR 383.5; ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 380.1020 Incorporation by Reference of 49 CFR 380

- a) The Department incorporates by reference 49 CFR 380 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, ~~2012~~2006, subject only to the exceptions in subsection (c) of this Section. No later amendments to or editions of 49 CFR 380 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-

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~~11813215 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 refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 380 shall apply for purposes of this Part.

- 1) 49 CFR 380.103 is not incorporated and the following is substituted therefor:

This Part applies to all operators of LCVs in interstate or intrastate commerce, employers of LCV operators, and LCV driver-instructors.

- 2) 49 CFR 380.105 is deleted and not incorporated.

- 3) 49 CFR 380.501 is not incorporated and the following is substituted therefor:

All entry-level drivers who drive in interstate or intrastate commerce and are subject to the CDL requirements of 49 CFR 383 must comply with subpart E of 49 CFR 380, except drivers who are subject to the jurisdiction of the Federal Transit Administration or who are otherwise exempt under 49 CFR 390.3(f).

- 4) 49 CFR 380.502 is deleted and not incorporated.

- 5) 49 CFR 380.509(a) is not incorporated and the following is substituted therefor:

Each employer must ensure that each entry-level driver that began operating a CMV requiring a CDL in interstate or intrastate commerce after July 20, 2003 receives the training required by 49 CFR 380.503.

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Controlled Substance and Alcohol Use and Testing
- 2) Code Citation: 92 Ill. Adm. Code 382
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
382.1000	Amend
382.1010	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) A Complete Description of the Subjects and Issues Involved: At Section 382.1010, the Department is updating the edition date of 49 CFR 382, Controlled Substance and Alcohol Use and Training, to 10/1/12, the most recent edition of 49 CFR and, also, incorporating by reference the federal rulemaking adopted at 78 FR 16189, March 14, 2013. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32934 of Subtitle I - Moving Ahead for Progress in the 21st Century (MAP-21).

At Section 382.1000, the Department is proposing to amend the Section heading and add a new subsection (b) that exempts drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, from this Part.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking affects units of local government that employ drivers who are required to possess a commercial driver's license (CDL).
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that employ drivers who are required to possess a CDL.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.

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- C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 382
CONTROLLED SUBSTANCE AND ALCOHOL USE AND TESTING

Section

- 382.1000 Purpose and Applicability
382.1010 Incorporation by Reference of 49 CFR 382

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 32 Ill. Reg. 10367, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 382.1000 Purpose and Applicability

- a) This Part establishes programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of certain commercial motor vehicles.
- b) This Part does not apply to drivers who operate covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 382.1010 Incorporation by Reference of 49 CFR 382

- a) 49 CFR 382 is hereby 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, 2012, as amended by 78 FR 16189, March 14, 2013~~2006~~. No later amendments to or editions of 49 CFR 382 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702~~3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703~~ or by calling 217/(217)785-1181. The FMCSR are available on the National

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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 refer to the appropriate citation in 49 CFR.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Safety Fitness Procedures
- 2) Code Citation: 92 Ill. Adm. Code 385
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
385.1010	Amend
385.2000	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) A Complete Description of the Subjects and Issues Involved: At Section 385.2000, the Department is updating the edition date of 49 CFR 385, subpart E, Hazardous Materials Safety Permits, to 10/1/12, the most recent edition of 49 CFR. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

At Section 385.1010, the Department is deleting "October 1, 2006" throughout this Section.

At Section 385.2000, the incorporation by reference of 49 CFR 385, subpart F requires a revision to the Subpart B heading in this Part, as well as the Section heading.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 385
SAFETY FITNESS PROCEDURES

SUBPART A: GENERAL REQUIREMENTS

Section	
385.1000	Purpose
385.1010	Definitions
385.1020	Unsatisfactory Rated Motor Carriers

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS
[AND INTERMODAL EQUIPMENT PROVIDERS](#)

Section	
385.2000	Incorporation by Reference of 49 CFR 385, subpart E <u>and subpart F</u>

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 25 Ill. Reg. 2131, effective January 17, 2001; amended at 26 Ill. Reg. 8966, effective June 5, 2002; amended at 29 Ill. Reg. 19216, effective November 10, 2005; amended at 32 Ill. Reg. 10374, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

Section 385.1010 Definitions

As used in this Part:

"Applicable Safety Regulations or Requirements" means 49 CFR chapter III, subchapter B – Federal Motor Carrier Safety Regulations or, if the carrier is an intrastate motor carrier subject to the hazardous materials safety permit requirements in subpart E of 49 CFR 385, 92 Ill. Adm. Code Subchapter d:

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Motor Carrier Safety Regulations and 49 CFR chapter I, subchapter C – Hazardous Materials Regulations.

"Commercial Motor Vehicle" means the same as the meaning ascribed to it in 92 Ill. Adm. Code 390.1020, except that Subpart B of this Part applies to intrastate motor carriers that transport those hazardous materials listed in 49 CFR 385.403 and incorporated by reference at Section 385.2000(a) of this Part.

"Compliance Review" means an on-site examination of a motor carrier's operations, such as the drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by a motor carrier, ~~or~~ to investigate complaints, or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action. (49 CFR 385.3, ~~October 1, 2006~~)

"Department" means the Illinois Department of Transportation.

"Federal Motor Carrier Safety Administration" or "FMCSA" means an agency within the United States Department of Transportation.

"Out-of-Service Order" means a prohibition against operating a commercial motor vehicle.

"Pipeline and Hazardous Materials Safety Administration" or "PHMSA" means the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. (49 CFR 171.8, October 1, 2006)

"Safety Management Controls" means the ~~system~~system, policies, programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations, that ensure the safe movement of products and passengers through the transportation system, and ~~to that~~ reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (49 CFR 385.3, ~~October 1, 2006~~)

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"Safety Permit" means a document issued by the FMCSA 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~~)

"Safety Ratings" means:

A satisfactory safety rating means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standards prescribed in 49 CFR 385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

A conditional safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in 49 CFR 385.5(a) through (k).

An unsatisfactory safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that has resulted in occurrences listed in 49 CFR 385.5(a) through (k).

An unrated carrier means that a safety rating has not been assigned to the motor carrier by the FMCSA. (49 CFR 385.3, ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS
AND INTERMODAL EQUIPMENT PROVIDERS

Section 385.2000 Incorporation by Reference of 49 CFR 385, subpart E and subpart F

- a) The Department incorporates by reference 49 CFR 385, subpart E and subpart F, as those subparts that subpart 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) were in effect on October 1, ~~2012~~2006, subject only to the exceptions in subsection (b) ~~of this Section~~. No later amendments to or

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additions of 49 CFR 385, subpart E and subpart F, are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~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) The following interpretations of 49 CFR 385, subpart E and subpart F, shall apply for purposes of this Subpart:
- 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 385.
 - 2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
 - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Motor Carrier Safety Regulations.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Procedures and Enforcement
- 2) Code Citation: 92 Ill. Adm. Code 386
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
386.1010	Amend
386.1035	Amend
386.1050	Amend
386.1110	Amend
386.1300	Amend
386.1320	Amend
386.1330	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 Section 3-704(b) of the Illinois Vehicle Code [625 ILCS 5/3-704(b)]
- 5) A Complete Description of the Subjects and Issues Involved: At Section 386.1035, the Department is updating the edition date of 49 CFR 386, appendix B, Penalty Schedule; Violations and Monetary Penalties, to 10/1/12, the most recent edition of 49 CFR.

At Sections 386.1035 and 386.1110, the Department is updating the title of appendix B pursuant to the revised title in 49 CFR 386, appendix B.

At Section 386.1050, the Department is adding references to the Parts of the Illinois Motor Carrier Safety Regulations that were inadvertently omitted during the last rulemaking.

At Section 386.1300, the Department is deleting references to the Congressional Act of 2005 because referencing the Congressional Act is no longer necessary.

Additionally, throughout this Part, the Department is updating the Division of Traffic Safety's contact information.
- 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

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operated commercial motor vehicles in Illinois.

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- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 386
PROCEDURES AND ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	
386.1000	Scope
386.1010	Definitions
386.1020	Service
386.1030	Subpoenas
386.1035	Incorporation by Reference

SUBPART B: ENFORCEMENT

Section	
386.1040	Responsibility for Enforcement
386.1050	Investigations
386.1060	Inspection of Records and Motor Vehicles
386.1070	Out of Service
386.1080	Record of Inspection
386.1090	Warning Letter
386.1110	Maximum Penalties
386.1120	Commencement of Civil Penalty Proceeding
386.1130	Reply
386.1140	Payment of Penalty
386.1150	Request for Hearing
386.1160	Hearing
386.1170	Presiding Officer's Decision
386.1180	Assessment Considerations
386.1190	Appeal
386.1200	Willful Violations
386.1210	Failure to Pay Civil Penalty

SUBPART C: PUBLIC UTILITY EXEMPTIONS

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section

386.1300	Purpose and Scope
386.1310	Exemptions for a Public Utility
386.1320	Initial Exemptions: Application and Review
386.1330	Renewals
386.1340	Expiration and Termination of an Exemption
386.1350	Appeal

AUTHORITY: Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] and Section 3-704(b) of the Illinois Vehicle Code [625 ILCS 5/3-704(b)].

SOURCE: Adopted at 14 Ill. Reg. 15542, effective September 10, 1990; amended at 18 Ill. Reg. 778, effective January 11, 1994; amended at 19 Ill. Reg. 13073, effective August 30, 1995; amended at 23 Ill. Reg. 5128, effective March 31, 1999; amended at 24 Ill. Reg. 1980, effective January 19, 2000; amended at 25 Ill. Reg. 2121, effective January 17, 2001; amended at 26 Ill. Reg. 8972, effective June 5, 2002; amended at 32 Ill. Reg. 10382, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 386.1010 Definitions

As used in this Part:

"Applicant" means a public utility that submits an application.

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation
P.O. Box 19212
3215 Executive Park Drive
Springfield, Illinois 62794-9212

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

"Exemption" means a document issued under the authority of the Division that authorizes a person to perform a function that is not otherwise authorized under the Illinois Motor Carrier Safety Regulations (IMCSR).

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

~~"Material(ly)"~~ "Materially" or "Materially" means anything ~~that~~which relates to any substantive issue that is of consequence to the determination of a proceeding.

"Officer" means an authorized employee of the Illinois Department of Transportation.

"Public Utility" means a firm lawfully licensed and engaged in any of the following: telephone, and television cable or community antenna service; the production, storage, transmission, distribution, sale, delivery, or furnishing of heat, cold, light, power, electricity, gas, water, or sanitary sewer; or the installation or repair of facilities for any of these activities.

"Relevant" means having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without that information.

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

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

"Undue Delay" means delay ~~that~~which is unwarranted, unjustified, or improper.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 386.1035 Incorporation by Reference

- a) The Department incorporates by reference 49 CFR 386, appendix B, — Penalty Schedule; Violations and ~~Maximum~~ Monetary Penalties, as that appendix ~~to 49~~

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~~CFR 386~~ was in effect on October 1, ~~2012~~~~2006~~, subject only to the exceptions in subsection (b) ~~of this Section~~. No later amendments to or additions of 49 CFR 386, appendix B are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The Federal Motor Carrier Safety Regulations (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) The following interpretations of 49 CFR 386, appendix B shall apply for purposes of this Part:
- 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 386.
 - 2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
 - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the ~~Illinois Motor Carrier Safety Regulations (IMCSR)~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: ENFORCEMENT

Section 386.1050 Investigations

- a) General
The Department may conduct investigations (Section 18b-102(b) of the Law) relating to compliance by any person with any provision of ~~IMCSR~~~~these Motor Carrier Safety Regulations (MCSR)~~ (92 Ill. Adm. Code 340, 380, 382, 385, 386, 387, 390, 391, 392, 393, 395, 396, and 397) and any order issued ~~under thereunder~~, or any court decree relating ~~to, those regulationsthereto~~.
- b) Confidentiality

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Information received in an investigation under this Section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential, but only to the extent that disclosure would:

- 1) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency;
- 2) interfere with pending administrative enforcement proceedings conducted by the Department;
- 3) deprive a person of a fair trial or an impartial hearing;
- 4) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
- 5) disclose unique or specialized investigative techniques other than those generally used and known;
- 6) endanger the life or physical safety of law enforcement personnel or any other person; or
- 7) obstruct an ongoing criminal investigation.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 386.1110 Maximum Penalties

A person who commits an act that is a violation of any of the IMCSR is liable for a civil penalty as prescribed by 49 CFR 386, appendix B, = Penalty Schedule; Violations and **Maximum Monetary Penalties**, **and incorporated by reference in Section 386.1035**. (See Section 18b-107 of the Law.) When the violation is a continuing one, each day of the violation constitutes a separate offense.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART C: PUBLIC UTILITY EXEMPTIONS

DEPARTMENT OF TRANSPORTATION

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Section 386.1300 Purpose and Scope

- a) This Subpart C applies to vehicles that are not subject to 92 Ill. Adm. Code 383 (i.e., operators required to obtain a commercial driver's license cannot qualify for this public utility exemption).
- b) ~~Drivers who~~Pursuant to the Motor Carrier Safety Reauthorization Act of 2005, ~~drivers that~~ operate utility service vehicles, as defined in 92 Ill. Adm. Code 390.1020, are exempt from the provisions of 92 Ill. Adm. Code 395. (See 92 Ill. Adm. Code 395.1000(b).) Drivers of utility service vehicles seeking relief from the hours of service requirements in 92 Ill. Adm. Code 395 are not required to follow the procedures contained in this Subpart C. ~~(See the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Title IV – Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).)~~
- c) This Subpart C prescribes procedures by which a public utility, as defined in Section 386.1010 and that is not subject to the ~~FMCSR~~federal Motor Carrier Safety Regulations, may obtain administrative relief from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 in the form of an exemption. Exemptions provided for in this Subpart C will be granted only when they insure levels of safety consistent with the public interest, with the ~~IMCSR~~Illinois Motor Carrier Safety Regulations, and with the tolerance guidelines established in 49 CFR 350, appendix C.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 386.1320 Initial Exemptions: Application and Review

- a) A public utility may apply to the Director for an exemption from the IMCSR as described in Section 386.1310(b) and (c).
- b) Each application filed under this Section for an exemption must:
- 1) Be submitted to:

Director, Division of Traffic Safety
Illinois Department of Transportation
~~3215 Executive Park Drive,~~ P.O. Box 19212

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Springfield, Illinois 62794-9212;

- 2) Reference the exemption being sought under Section 386.1310;
- 3) State the name, address, and telephone number of the applicant;
- 4) Certify that the vehicles for which an exemption is sought are used for the delivery of essential utility services to the public;
- 5) Certify that the public utility systematically inspects, repairs and maintains all commercial motor vehicles operating under the exemption as incorporated by reference in 92 Ill. Adm. Code 396. Parts and accessories shall be in safe and proper operating condition at all times. This Subpart C does not provide for exemption from the semi-annual inspection required by the Illinois Vehicle Inspection Law [625 ILCS 5/13-101 and 13-109];
- 6) For vehicles controlled by the public utility for 30 consecutive days or more, the utility must maintain or cause to be maintained records as incorporated by reference in 92 Ill. Adm. Code 396. If requested, the public utility must make these records available for inspection by an officer of the Department;
- 7) Certify that the firm's drivers of the commercial motor vehicles fully comply with the driver qualification standards outlined in 92 Ill. Adm. Code 391;
- 8) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR of 26,000 pounds or less for which an exemption is requested;
- 9) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR greater than 26,000 pounds for which hours of service relief is requested;
- 10) Make available for inspection by an officer of the Department comprehensive fleet accident information for the previous two years and annual total fleet mileage (See 92 Ill. Adm. Code 390.1020 for definition of accident.);

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- 11) Identify any increased risks that are likely to result if an exemption is granted, and specify the safety control measures that the applicant considers necessary or appropriate to compensate for those increased risks;
 - 12) State the reasons why the applicant believes the requested exemption, including any safety control measures specified by the applicant, will achieve a level of safety that:
 - A) Is at least equal to that specified in the IMCSR from which the exemption is sought; or
 - B) If the IMCSR do not contain a specified level of safety, will be consistent with the public interest and will protect against the risks of life and property;
 - 13) Certify that the transportation described in the requested exemption is not governed by the FMCSR~~federal Motor Carrier Safety Regulations~~.
- c) If the applicant seeks to have the application processed on a priority basis, the applicant must set forth the supporting facts and reasons. If the Director, or his/her designated officer, determines that the request warrants priority consideration because of an emergency as defined in 92 Ill. Adm. Code 390.1020, the application will be processed as timely as practicable.
 - d) To permit timely consideration, an application should be submitted at least 60 days before the requested effective date.
 - e) If the applicant states that the information contained in the application constitutes trade secrets or commercial or financial information, the applicant must include a statement as to why the information is privileged or confidential.
 - f) Upon receipt by the Division, the application will be date and time-stamped. The Division will determine whether the application is complete and in conformance with this Subpart C. Incomplete applications will be returned along with a letter containing the reasons the application is incomplete. In that case, the applicant will be requested to supply additional information or documentation. An

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applicant that does not supply such additional information or documentation will not be approved.

- g) When the Division determines that the application is complete, an on-site visit will be conducted within 60 calendar days after receipt of that determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.
- h) A decision regarding the granting of an exemption will be based upon the application and record assembled by the Division.
- i) A letter of approval will be mailed by the Director, or his/her designated officer, to the applicant granting the exemption. The exemption is effective for a two year period from the date of the approval letter.
- j) A letter of denial containing a statement of the reasons why the applicant has not been granted an exemption and the provisions of Subpart C that support the denial will be mailed to applicants denied exemptions. Applicants denied an exemption may:
 - 1) Correct deficiencies listed in the letter of denial and reapply if the application can be modified to meet the Department's objections as specified in the letter of denial; or
 - 2) Appeal the decision (see Section 386.1350 for appeal procedures).
- k) At any time there is a material change in the application or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 386.1330 Renewals

- a) Each application for the renewal of an exemption issued under this Subpart C must be filed prior to the expiration of the exemption. To permit timely consideration, an application for renewal should be submitted at least 60 calendar

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days before the expiration of the exemption. An exemption that is allowed to lapse will not be considered a renewal. Initial application procedures as outlined in Section 386.1320 will apply in the case of lapsed exemptions. The exemption of an applicant that has timely filed an application for renewal will continue pending the consideration of the renewal.

- b) Each application for the renewal of an exemption issued under this Subpart C must:
- 1) Be submitted to:

Director, Division of Traffic Safety
Illinois Department of Transportation
~~3215 Executive Park Drive~~, P.O. Box 19212
Springfield, Illinois 62794-9212;
 - 2) Identify the exemption for which a renewal is requested;
 - 3) State the name, address, and telephone number of the applicant;
 - 4) Include:
 - A) A certification by the applicant that the information submitted in the original application, or as may have been updated by any subsequent application for renewal, is accurate and correct; or
 - B) Such amendments to the previously submitted information as is necessary to update it and assure its accuracy and correctness;
 - 5) Include a statement describing all accident experience that has occurred in connection with the exemption since its issuance or most recent renewal, or, if no accidents have occurred, a certification to that effect. (See 92 Ill. Adm. Code 390.1020 for the definition of accident.)
- c) Upon receipt by the Division, the Division will date and time-stamp the application for renewal. The Division will determine whether the application is complete and in conformance with this Subpart C. The applicant will be requested to supply missing information or attachments.

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- d) When the Division determines that the application for renewal is complete, an on-site visit will be conducted within 60 calendar days after the determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.
- e) A decision regarding the renewal of an exemption will be based upon the application and record assembled by the Division. Exemptions will not be renewed unless the record establishes that the applicant meets the requirements of this Subpart C.
- f) A letter of approval will be mailed by the Director granting the renewal of the exemption. The renewal is effective for a two year period from the date of the approval letter.
- g) A letter of denial containing a statement of the reasons why the exemption has not been renewed and the provisions of Subpart C that support the denial will be mailed to an applicant denied renewal.
- h) Applicants denied a renewal may correct deficiencies listed in the letter of denial and reapply if the application for renewal can be modified to meet the Department's objections as specified in the letter of denial, or applicants may appeal the decision as provided for in Section 386.1350 ~~of this Subpart C.~~
- i) At any time there is a material change in the application for renewal or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Minimum Levels of Financial Responsibility for Motor Carriers
- 2) Code Citation: 92 Ill. Adm. Code 387
- 3) Section Number: 387.2000 Proposed 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) A Complete Description of the Subjects and Issues Involved: The Department is updating the edition date of 49 CFR 387, Minimum Levels of Financial Responsibility for Motor Carriers, to 10/1/12, the most recent edition of 49 CFR. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 387

MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Section

387.1000	Purpose
387.1050	Applicability
387.2000	Incorporation by Reference of 49 CFR 387

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 29 Ill. Reg. 19222, effective November 10, 2005; amended at 32 Ill. Reg. 10392, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 387.2000 Incorporation by Reference of 49 CFR 387

- a) The Department incorporates by reference 49 CFR 387 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, ~~2012~~2006. No later amendments to or editions of 49 CFR 387 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181 ~~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 refer to the appropriate citation in 49 CFR.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Proposed Action</u> :
390.1000	Amend
390.1010	Amend
390.1020	Amend
390.1030	Amend
390.2000	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) A Complete Description of the Subjects and Issues Involved: At Section 390.2000, the Department is updating the edition date of 49 CFR 390, Subpart B, General Requirements and Information, to 10/1/12, the most recent edition of 49 CFR and, also, incorporating by reference the federal rulemaking adopted at 78 FR 16189, 3/14/13. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32101(d) of Subtitle A and Section 32934 of Subtitle I – Moving Ahead for Progress in the 21st Century (MAP-21).

At Section 390.1000 the Department is adding references to the Parts of the Illinois Motor Carrier Safety Regulations that were inadvertently omitted during the last rulemaking.

The following changes are being made to Section 390.1010, General Applicability:

At subsection (f)(1), the Department is adding a reference to 49 CFR 392.80 that prohibits school bus drivers from texting while driving.

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At subsection (f)(6), the Department is adding references to other parts in 49 CFR that operators of vehicles designed or used to transport between 9 and 15 passengers (including the driver), not for direct compensation, are required to comply with (e.g., marking requirements and prohibiting cell phone use and text messaging while driving).

At subsection (f)(7), the Department is adding a new subsection pursuant to a federal rulemaking of July 5, 2007 [72 FR 36760] that amended 49 CFR 390. The final rule established an exception for commercial motor vehicles used primarily in the transportation of propane winter heating fuel or used to respond to a pipeline emergency.

At subsection (g), the Department is amending this subsection for consistency with 49 CFR 390.3(g) and to update part and section headings from 49 CFR 386 and 49 CFR 390.19 and 390.21.

At subsection (h), the Department is adding a subsection that prescribes applicability requirements for intermodal equipment providers pursuant to a federal rulemaking of December 17, 2008 [73 FR 76794].

At Section 390.1020, Definitions, the Department is deleting the references to "October 1, 2006" throughout the Section. Additionally, the following definitions are also being added or amended:

The definition of commercial motor vehicle is being amended pursuant to statutory amendments in Section 18b-101 of the Code.

The definition of "Commercial Vehicle Inspections" is being amended for consistency with the definition found in the Commercial Vehicle Safety Alliance's April 2013 edition of the North American Out-of-Service Criteria.

A new definition is being added that defines "Covered Farm Vehicle" as prescribed in MAP-21 and the federal rulemaking of 78 FR 16189, March 14, 2013.

The definition of "Distribution Point" is being amended to clarify that both wholesale and retail movements are included in the definition.

Other definitions are being amended, added and deleted for consistency with the applicable definitions found in CFR.

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At Section 390.1030, Rules of Construction, the Department is deleting the references to "October 1, 2006" throughout this Section.

The following changes are being made to Section 390.2000, Incorporation by Reference:

At subsection (b)(2), the Department is adding a reference to 49 CFR 390.19, Motor carrier, hazardous material shipper, and intermodal equipment provider identification reports, for consistency with 49 CFR 390.3(g)(4).

At subsection (b)(3), the Department is adding a subsection for consistency with 49 CFR 390.3(g)(4) that exempts intrastate commercial motor vehicles subject to 49 CFR 385.403 and operating prior to January 1, 2005 from the provisions of 49 CFR 390.19(a)(1).

At subsection (b)(5), the Department is deleting and not incorporating by reference a subsection that addresses states' requirements in implementing the provisions of MAP-21. (See 78 FR 16189, 3/14/13.)

At subsection (b)(9), the Department is deleting the references to "October 1, 2006" throughout this Section.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

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. 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; amended at 37 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/Ch. 18B]. The Illinois Motor Carrier Safety Regulations (IMCSR) consist of 92 Ill. Adm. Code 340, 380, 382, 383, 385, 386, 387, 390, 391, 392, 393, 395, 396, and 397.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

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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 ~~that~~^{which} are applicable to that motor carrier's operations.
 - 2) Every driver and employee shall comply with all applicable requirements 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), 49 CFR 392.80 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,

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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 390.15](#), [390.19](#), [390.21\(a\)](#) and [390.21\(b\)\(2\)](#), [49 CFR 391.15\(f\)](#), and [49 CFR 392.80](#) and [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.

7) Either a driver of a commercial motor vehicle used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency, if the motor carrier safety regulations would prevent the driver from responding to an emergency condition requiring an immediate response, as defined in [Section 390.1020](#).

- 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, [subparts A and E](#), for carriers subject to the requirements of [49 CFR 385.403](#);
 - 2) 49 CFR 386, [Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings](#)~~Proceedures 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, Hazardous Material Shipper, and Intermodal Equipment Provider Identification Reports](#)~~Motor carrier identification report~~, and 49 CFR 390.21, [Marking of Self-Propelled CMVs and Intermodal Equipment](#)~~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\(a\)\(1\)](#).

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- h) The following regulations apply to intermodal equipment providers:
- 1) 49 CFR 385, subpart F and 92 Ill. Adm. Code 385, Subpart B;
 - 2) 49 CFR 386 and 92 Ill. Adm. Code 386;
 - 3) 49 CFR 390 and 92 Ill. Adm. Code 390, except 49 CFR 390.15(b) concerning accident registers;
 - 4) 49 CFR 393 and 92 Ill. Adm. Code 393; and
 - 5) 49 CFR 396 and 92 Ill. Adm. Code 396.

AGENCY NOTE~~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 37 Ill. Reg. _____, effective _____)

Section 390.1020 Definitions

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

"Accident" means:

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

A fatality;

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

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

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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)

"Charter transportation of passengers" means transportation, using a bus, of a

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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)~~(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 [430 ILCS 30].

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~~Vehicle Inspections" means:

Level 1 – North American Standard Inspection: An inspection that includes examination of driver's license; medical examiner's certificate and Skill Performance Evaluation (SPE) Certificate (if applicable); alcohol and drugs; driver's record of duty status as required; hours of service; seat belt; vehicle inspection report or reports (if applicable); brake systems; coupling devices; exhaust systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals and lamps/flags on projecting loads); securement of cargo; steering mechanisms; suspensions; tires; van and open-top trailer bodies; wheels, rims and hubs; windshield wipers; emergency exits and/or electrical cables and systems in engine and battery compartments (buses); and Hazardous Material/Dangerous Goods (HM/DG) requirements as applicable. HM/DG required inspection items will be inspected by certified HM/DG inspectors.~~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 includes each of the items specified under the North American Standard Inspection Level 2 Walk-Around Driver/Vehicle Inspection Procedure. At a minimum, Level 2 inspections must include examination of: driver's license; medical examiner's certificate and Skill Performance Evaluation (SPE) Certificate (if applicable); alcohol and drugs; driver's record of duty status as required; hours of service; seat belt; vehicle inspection report or reports (if applicable); brake systems; coupling devices; exhaust systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals and lamps/flags on projecting loads); securement of cargo; steering mechanisms; suspensions; tires; van and open-top trailer bodies; wheels, rims and hubs; windshield wipers; emergency exits and/or

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~~electrical cables and systems in engine and battery compartments (buses); and HM/DG requirements as applicable. HM/DG required inspection items will be inspected by certified HM/DG inspectors. It is contemplated that the walk-around driver/vehicle inspection will include only those items that can be inspected without physically getting under the vehicle, 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/Credential Inspection: An examination that includes those items specified under the North American Standard Level 3 Driver/Credential Inspection Procedure. At a minimum, Level 3 inspections must include, when required and/or applicable, examination of the driver's license; medical examiner's certificate and Skill Performance Evaluation (SPE) Certificate; driver's record of duty status; hours of service; seat belt; vehicle inspection report; and HM/DG requirements. Those items not indicated in the North American Standard Level 3 Driver/Credential Inspection Procedure shall not be included on a Level 3 inspection.~~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 Inspection (Level 1), without a driver present, conducted at any location.

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Level 6 – North American Standard Inspection for Transuranic Waste and Highway Route Controlled Quantities (HRCQ) of Radioactive Material: An inspection for select radiological shipments, which include inspection procedures, enhancements to the North American Standard Level 1 Inspection, radiological requirements, and the North American Standard Out-of-Service Criteria for Transuranic Waste and HRCQ of Radioactive Material. All vehicles and carriers transporting HRCQ of radioactive material are regulated by the U.S. Department of Transportation and required to pass the North American Standard Level 6 Inspection. Select radiological shipments include HRCQ of radioactive material as defined in 49 CFR 173.403. Because only a small fraction of transuranics are HRCQ, the U.S. Department of Energy has decided to include its transuranic waste shipments in the North American Standard Level 6 Inspection Program.

Level 7 – Jurisdictional Mandated Commercial Vehicle Inspection: An inspection that is a jurisdictional mandated inspection program that does not meet the requirements of any other level of inspection. An example would include inspection programs including, but not limited to: school buses; limousines; taxis; shared rides; hotel courtesy shuttles; and other intrastate/intraprovincial operations. These inspections may be conducted by CVSA-certified inspectors, other designated government employees or jurisdiction approved contractors. Inspector training requirements shall be determined by each jurisdiction. No CVSA decal shall be issued for a Level 7 inspection, but a jurisdiction-specific decal may be applied.

(~~Commercial Vehicle Safety Alliance~~(CVSA), North American Standard Out-of-Service Criteria, April 2013~~CVSA Operations Manual, January 1996~~)

"Commercial Vehicle Safety Alliance" or "CVSA" means the international not-for-profit organization comprising local, state, provincial, territorial and federal motor carrier safety officials and industry representatives from the United States, Canada and Mexico. Its mission is to promote commercial motor vehicle safety and security by providing leadership to enforcement, industry and policy makers. CVSA actively monitors, evaluates and identifies solutions to potentially unsafe

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transportation processes and procedures related to driver and vehicle safety requirements most often associated with commercial motor vehicle crashes. In addition, CVSA has several hundred associate members who are committed to helping CVSA achieve its goals, uniformity, compatibility and reciprocity of commercial vehicle inspections, and enforcement activities throughout North America by individuals dedicated to highway safety and security, 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~~)

"Covered farm vehicle" means a straight truck or an articulated vehicle (excluding vehicles transporting hazardous materials in a quantity requiring placards) registered in Illinois or another state that:

Is operated by:

A farm owner or operator, or an employee or family member of the farm owner or operator; or

A ranch owner or operator, or an employee or family member of the ranch owner or operator; and

Is being used to transport the following to or from a farm or ranch:

agricultural commodities, as defined in Section 18b-101 of the Law;

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livestock, as defined in Section 18b-101 of the Law; or

machinery or supplies; and

Is registered in Illinois as a farm truck or farm truck tractor and displays a farm registration "license" plate (when vehicles are used in combination, the truck (i.e., power or pulling unit) must display a farm registration "license" plate); or is equipped with a special license plate or other designation by the state in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

Is not used in for-hire motor carrier operations by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement. For-hire motor carrier operations do not include the operation of a vehicle that otherwise meets the definition of a covered farm vehicle as defined in this Section; and

Has a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR) or gross vehicle weight or gross combination weight, whichever is greater, that is:

26,001 pounds or less, for vehicles operating in interstate commerce; or

Greater than 26,001 pounds, traveling in interstate commerce and registered in Illinois; or

Greater than 26,001 pounds and traveling in interstate commerce within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, regardless of whether it is registered in Illinois; or

Greater than 10,000 pounds and traveling intrastate.

AGENCY NOTE: Covered farm vehicles used in intrastate commerce are subject to the Illinois Vehicle Inspection Law as prescribed in Sections 13-101 and 13-109 of the Code.

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"Dangerous goods" (see the definition of "Hazardous Material" in this Section).

"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 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)

"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~~)

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"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. This definition applies to both wholesale and retail movements.

"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 vehicle manufacturer's facilities;

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) following a crash;

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)

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

"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~~)

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~~"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;~~

~~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;~~

~~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)~~

~~"Electronic device" means, but is not limited to, a cellular telephone; personal digital assistant; pager; computer; or any other device used to input, write, send, receive or read text. (49 CFR 390.5)~~

"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

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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 condition requiring immediate response" means any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death or substantial damage to property. In the case of transportation of propane winter heating fuel, these conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An "emergency condition requiring immediate response" does not include requests to refill empty gas tanks. In the case of a pipeline emergency, these conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture. (49 CFR 390.5)

"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 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 any individual, other than an employer, who is employed by an employer and who, in the course of his or her employment, directly affects commercial motor vehicle safety. The term includes:

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

A mechanic; and

A freight handler; ~~and~~

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~~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)~~

The 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 among states and approved by the Congress of the United States who is acting within the course of that employment. (49 CFR 390.5)

"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 ~~an~~ 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. For purposes of 49 CFR 391.62, 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 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.

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"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~~)

"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

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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~~)

"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~~)

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"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" in (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" in (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" in (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 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

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included hereunder. (Section 1-130 of the Code)

"Interchange" means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider, but it does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations. (49 CFR 390.5)

"Intermodal equipment" means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis. (49 CFR 390.5)

"Intermodal equipment interchange agreement" means the Uniform Intermodal Interchange and Facilities Access (UIIA) Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment. (49 CFR 390.5)

"Intermodal equipment provider" means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment. (49 CFR 390.5)

"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

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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~~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.

"Medical variance" means a driver has received one of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

An exemption letter permitting operation of an interstate commercial motor vehicle pursuant to 49 CFR 381, subpart C or 49 CFR 391.64;

A skill performance evaluation certificate permitting operation of an interstate commercial motor vehicle pursuant to 49 CFR 391.49. (49 CFR 390.5)

"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. (49 CFR 390.5)

"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 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

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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~~)

"Motor vehicle record" means the report of the driving status and history of a driver generated from the driver record, provided to users, such as drivers or employers, and subject to the provisions of the Driver Privacy Protection Act (18 USC 2721 through 2725). (49 CFR 390.5)

"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 Department, the Illinois State Police and the federal government have authority to enforce the out-of-service criteria.

"Operating authority" means the registration required by 49 USC 13902, 49 CFR 365, 49 CFR 368 and 49 CFR 392.9a. (49 CFR 390.5)

"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

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operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, [49 CFR 392.9\(a\)](#), 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.

"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 ~~three~~ 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 [92 Ill. Adm. Code](#) ~~49 CFR 382 and 49 CFR 387, as well as Parts 340, 380, 382, 383, 385, 387, 390, 391, 395, 396, and 397~~, available for inspection at [its principal place of business](#) ~~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

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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 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~~)

"Regional Director of Motor Carriers" means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States. (49 CFR 390.5)

"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.

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"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 seven⁷ 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~~)

"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) means the State of Illinois.

"Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include:

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Inputting, selecting, or reading information on a global positioning system or navigation system; or

Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

Using a device capable of performing multiple functions (e.g., fleet management systems, dispatching devices, smart phones, citizens band radios, music players, etc.) for a purpose that is not otherwise prohibited in this Part. (49 CFR 390.5)

"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 motor 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~~)

"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

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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. (49 CFR 390.5)

"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

Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to

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whether the vehicle is owned, leased, or rented by the utility. (49 CFR 395.2, ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 390.1030 Rules of Construction

- a) In the IMCSR unless the context requires otherwise:
- 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular; and
 - 3) Words imparting the present tense include the future tense. (49 CFR 390.7, ~~October 1, 2006~~)
- b) In the IMCSR:
- 1) "Officer" includes any person authorized by law to perform the duties of the office;
 - 2) "Writing" includes printing and typewriting;
 - 3) "Shall" is used in an imperative sense;
 - 4) "Must" is used in an imperative sense;
 - 5) "Should" is used in a recommendatory sense;
 - 6) "May" is used in a permissive sense; and
 - 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

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Section 390.2000 Incorporation by Reference

- a) 49 CFR 390, subpart B, is hereby incorporated by reference as that subpart 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, 2012, as amended by 78 FR 16189, March 14, 2013~~2006~~, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, subpart B are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~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) The following interpretations of, additions to and deletions from 49 CFR 390, subpart B shall apply for the purposes of this Subpart:
- 1) 49 CFR 390.9 is deleted and not incorporated.
 - 2) 49 CFR 390.19 and 49 CFR 390.21 apply~~applies~~ to the following:
 - A) Commercial motor vehicles engaged in interstate commerce; and
 - B) Commercial motor vehicles engaged in intrastate commerce if the carrier requires a safety permit as required by 49 CFR 385.403.
 - 3) Commercial motor vehicles subject to the safety permit requirements of 49 CFR 385.403 and engaged in intrastate commerce prior to January 1, 2005 are excepted from 49 CFR 390.19(a)(1).
 - 43) 49 CFR 390.23(a)(2)(i)(A) is not incorporated and the following substituted ~~therefor~~:

An emergency has been declared by a Federal, State, or local government official having authority to declare an emergency, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his or her

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

designee.

- | 5) 49 CFR 390.39(b)(1) is deleted and not incorporated.
- | 64) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
- | 75) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
- | 86) Any reference to a section in the incorporated material shall be read to refer to that Section in the IMCSR.
- | 97) Any reference to "part 325 of subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards" (49 CFR 325, October 1, 2006).
- |

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Number: 391.2000 Proposed 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) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is updating the edition date of 49 CFR 391, Qualification of Drivers, to 10/1/12, the most recent edition of 49 CFR and, also, incorporating by reference the federal rulemaking adopted at 78 FR 16189, 3/14/13. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32934 of Subtitle I - Moving Ahead for Progress in the 21st Century (MAP-21).

The following changes are being made to Section 391.2000, Incorporation by Reference of 49 CFR 391:

At subsection (c)(1), drivers of covered farm vehicles (as defined in 92 Ill. Adm. Code 390.1020) cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is being provided pursuant to MAP-21 and 78 FR 16189, March 14, 2013.

At subsection (c)(2), the Department is deleting this subsection and is, instead, incorporating 49 CFR 391.2 by reference at Section 391.2000(a).

At subsection (c)(8), the Department is exempting drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, from 49 CFR 391, subpart E. This exemption is

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

being provided pursuant to the Congressional Act of 2012 (MAP-21) and the federal rulemaking of 78 FR 16189, March 14, 2013.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

217/524-3838

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED 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; amended at 37 Ill. Reg. _____, effective _____.

Section 391.2000 Incorporation by Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012, as amended by 78 FR 16189, March 14, 2013, 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, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181 ~~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

DEPARTMENT OF TRANSPORTATION

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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 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 ([the 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. [Drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020 cannot be placed out-of-service for violations of 49 CFR 391, subpart E.](#)
 - 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)~~

DEPARTMENT OF TRANSPORTATION

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~~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.~~

- 23) 49 CFR 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- 34) *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)*
- 45) 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 either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or that is designed to transport more than 15 passengers, including the driver; or that 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 [\[430 ILCS 30\]](#). 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 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 made the IMCSR applicable to vehicles described in this subsection (c)(~~45~~). 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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

a record of accidents that would indicate a lack of ability to operate a motor vehicle in a safe manner.

- [56](#)) 49 CFR 391.43(a) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b), the medical examination shall be performed by a licensed medical examiner as defined in 92 Ill. Adm. Code 390.1020.

- [67](#)) 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 (c)(~~23~~) or (c)(~~34~~), the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

- [78](#)) 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.

- [8](#)) [49 CFR 391, subpart E, Physical Qualifications and Examinations, does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.](#)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

<u>Section Number:</u>	<u>Proposed Action:</u>
392.2000	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) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is updating the edition date of 49 CFR 392, Driving of Commercial Motor Vehicles, to 10/1/12, the most recent edition of 49 CFR. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

The Department is deleting Section 392.2000(d) since the texting prohibition for operators of commercial motor vehicles is being incorporated by reference at Section 392.2000(a).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

Section

392.1000 General

392.2000 Incorporation by Reference of 49 CFR 392

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

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. 740, effective January 11, 1994; amended at 18 Ill. Reg. 10359, effective June 15, 1994; amended at 19 Ill. Reg. 13038, effective August 30, 1995; amended at 20 Ill. Reg. 15330, effective November 18, 1996; amended at 23 Ill. Reg. 5093, effective March 31, 1999; amended at 24 Ill. Reg. 1942, effective January 19, 2000; amended at 25 Ill. Reg. 2090, effective January 17, 2001; amended at 26 Ill. Reg. 9002, effective June 5, 2002; amended at 27 Ill. Reg. 9243, effective June 2, 2003; amended at 29 Ill. Reg. 19256, effective November 10, 2005; amended at 32 Ill. Reg. 10425, effective June 25, 2008; amended at 36 Ill. Reg. 13249, effective August 3, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 392.2000 Incorporation by Reference of 49 CFR 392

- a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~~~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, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181 ~~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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

<http://www.dot.il.gov/safety.html>.

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to 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.~~

de) 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 ~~(de)(2) of this Section~~, the driver shall comply immediately with ~~thesueh~~ order.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 393
PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section

393.1000 General
393.2000 Incorporation by Reference of 49 CFR 393

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. 15537, effective September 10, 1990; amended at 15 Ill. Reg. 13185, effective August 21, 1991; amended at 18 Ill. Reg. 774, effective January 11, 1994; amended at 19 Ill. Reg. 13070, effective August 30, 1995; amended at 20 Ill. Reg. 15362, effective November 18, 1996; amended at 23 Ill. Reg. 5124, effective March 31, 1999; amended at 24 Ill. Reg. 1974, effective January 19, 2000; amended at 25 Ill. Reg. 2117, effective January 17, 2001; amended at 26 Ill. Reg. 9005, effective June 5, 2002; amended at 27 Ill. Reg. 9247, effective June 2, 2003; amended at 28 Ill. Reg. 1157, effective January 4, 2004; amended at 29 Ill. Reg. 19260, effective November 10, 2005; amended at 32 Ill. Reg. 10429, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 393.2000 Incorporation by Reference of 49 CFR 393

- a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) 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, ~~2012~~²⁰⁰⁶, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~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>.

DEPARTMENT OF TRANSPORTATION

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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.
- c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.
- 1) 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code [625 ILCS 5/3-815(c)] and utilized in intrastate commerce (Section 18b-105(c)(2) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(2)]~~Law~~).
 - 2) 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce that were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the ~~Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(1)]~~).
 - 3) Authorized Illinois State Police shall place vehicles 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 vehicle out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hours-of-Service of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 395
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
395.1000	Amend
395.2000	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) A Complete Description of the Subjects and Issues Involved: At Section 395.2000, the Department is updating the edition date of 49 CFR 395, Hours-of-Service of Drivers, to 10/1/12, the most recent edition of 49 CFR and, also, incorporating by reference the federal rulemaking adopted at 78 FR 16189, 3/14/13. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32101(d) of Subtitle A and Section 32934 of Subtitle I - Moving Ahead for Progress in the 21st Century (MAP-21).

At Section 395.1000, pursuant to MAP-21 and 78 FR 16189, March 14, 2013, the Department is proposing to amend the Section heading and add a new subsection (c) that exempts drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, from this Part. In subsection (b) of this Section, the Department is also removing a reference to the Motor Carrier Safety Reauthorization Act of 2005. This reference is no longer necessary since the language is now in the CFR.

The following changes are being made to Section 395.2000, Incorporation by Reference of 49 CFR 395:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

At subsection (c)(3), the Department is deleting a subsection that was prescribed in the Motor Carrier Safety Reauthorization Act of 2005. This language is now located in the CFR and is incorporated by reference in subsection (a) of this Section.

At subsection (c)(3)(A), the Department is adding two new categories, or levels, of the North American Uniform Out of Service Criteria to the Part. These new levels were established after the last amendment to this Part and are currently being enforced by certified Illinois State Police officers.

At newly added subsection (c)(3)(E), the Department is clarifying that drivers of covered farm vehicles cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is being provided pursuant to MAP-21 and 78 FR 16189, 3/14/13.

At newly added subsection (c)(4)(A), (B) and (C), the Department is adding new provisions to replace the existing provisions of Section 395.2000(c)(5) that provide exemptions to this Part as prescribed in Section 32101(d) of MAP-21 and 78 FR 16189, 3/14/13. These exemptions provide relief from the hours-of-service requirements for certain carriers transporting agricultural commodities and farm supplies for agricultural purposes, as defined in Section 18b-101 of the Law and 92 Ill. Adm. Code 390.1020.

At subsection (d), the Department is adding a provision to clarify statutory language regarding the hours-of-service requirements for contract carriers.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles.
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 395
HOURS-OF-SERVICE OF DRIVERS

Section

- 395.1000 Purpose and Applicability ~~General~~
395.2000 Incorporation by Reference of 49 CFR 395

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. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. 743, effective January 11, 1994; amended at 19 Ill. Reg. 13041, effective August 30, 1995; amended at 20 Ill. Reg. 15335, effective November 18, 1996; amended at 23 Ill. Reg. 5096, effective March 31, 1999; amended at 24 Ill. Reg. 1944, effective January 19, 2000; amended at 25 Ill. Reg. 2092, effective January 17, 2001; amended at 26 Ill. Reg. 9009, effective June 5, 2002; amended at 26 Ill. Reg. 12766, effective August 12, 2002; amended at 27 Ill. Reg. 9251, effective June 2, 2003; amended at 28 Ill. Reg. 1161, effective January 4, 2004; emergency amendment at 28 Ill. Reg. 6654, effective April 14, 2004, for a maximum of 150 days; emergency expired September 10, 2004; amended at 29 Ill. Reg. 19264, effective November 10, 2005; amended at 30 Ill. Reg. 5642, effective March 8, 2006; amended at 32 Ill. Reg. 10433, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 395.1000 Purpose and Applicability ~~General~~

- a) This Part prescribes the hours-of-service requirements for drivers of commercial motor vehicles in Illinois.
- b) This Part does not apply to drivers of utility service vehicles as defined in 92 Ill. Adm. Code 390.1020. ~~(See Section 4132 of the Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).)~~
- c) This Part does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours-of-Service of Drivers" (49 CFR 395) 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, ~~2012, as amended by 78 FR 16189, March 14, 2013, 2006~~ subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 N 9th Street, Springfield, Illinois 62702 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703~~ or by calling ~~217/(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 refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
 - 1) 49 CFR 395.1(h) and 395.1(i) are deleted and not incorporated.
 - 2) 49 CFR 395.1(e)(1) as it applies to intrastate carriers is amended to establish that *drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.* (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])
 - 3) ~~49 CFR 395.5 shall apply to any operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of the operator. (See Section 4133 of the Motor Carrier Safety Reauthorization Act of 2005.)~~

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34) 49 CFR 395.13 is not incorporated and the following substituted therefor:

- A) Authority to declare drivers out-of-service due to 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 in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, 3, 4, ~~or 5, 6 or 7~~ (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(34)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.
- B) Out-of-Service Criteria
- i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
- ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior 7seven consecutive days.
- iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.
- C) Responsibilities of Motor Carriers~~motor-carriers~~
- i) No motor carrier shall:
- Require or permit a driver who has been declared out-of-

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service to operate a commercial motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395.

- Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section. The appropriate consecutive hours off duty period may include sleeper berth time.

- ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

D) Responsibilities of the Driver:

- i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.
- ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section.
- iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.

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- iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of commercial motor vehicles.
- E) Subsection (c)(3) does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.
- 4) This Part shall not apply to drivers engaged in agricultural operations, as defined in Section 18b-101 of the Law, that:
- A) Are transporting agricultural commodities, as defined in Section 18b-101 of the Law, to a location within a 150 air-mile radius from the source; or
- B) Are transporting farm supplies for agricultural purposes, as defined in Section 18b-101 of the Law, from a wholesale or retail distribution point, as defined in 92 Ill. Adm. Code 390.1020, of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or
- C) Are transporting farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.
- 5) Part 395 shall not apply to agricultural operations as defined in 92 Ill. Adm. Code 390.1020 that are engaged in intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point (see definitions in 92 Ill. Adm. Code 390.1020) for farm supplies used for agricultural purposes (also defined in 92 Ill. Adm. Code 390.1020). (See Section 18b-105(e)(6) of the Law and Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005.)
- 56) Part 395 shall not apply to all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020 that is engaged in intrastate

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commerce. (Section 18b-105(c)(6) of the Law)

67) Part 395 shall not apply to any grain hauling operations that are engaged in intrastate commerce within a radius of 200 air miles of the normal work reporting location. (Section 18b-105(c)(6) of the Law)

- d) *A contract carrier shall limit the hours-of-service by a driver transporting employees in the course of their employment on a road or highway of this State in a vehicle designed to carry 15 or fewer passengers to 12 hours of vehicle operation per day, 15 hours of on-duty service per day, and 70 hours of on-duty service in 7 consecutive days. The contract carrier shall require a driver who has 12 hours of vehicle operation per day or 15 hours of on-duty service per day to have at least 8 consecutive hours off duty before operating a vehicle again.* (Section 18b-106.1 of the Law) If the driver drives over 12 hours per day or performs more than 15 hours of on-duty service per day, the driver must complete a log book for that day.

AGENCY NOTE:~~Agency Note:~~ See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 for applicable intrastate public utility commercial motor vehicles.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
396.1000	Amend
396.2000	Amend
396.2010	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) A Complete Description of the Subjects and Issues Involved: At Section 396.2000, the Department is updating the edition date of 49 CFR 396, Inspection, Repair and Maintenance, to 10/1/12, the most recent edition of 49 CFR and also incorporating by reference the federal rulemaking adopted at 78 FR 16189, 3/14/13. Additionally, the Department is updating the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32934 of Subtitle I - Moving Ahead for Progress in the 21st Century (MAP-21).

Pursuant to MAP-21 and the federal rulemaking of March 14, 2013 [78 FR 16189], at Section 396.1000, Purpose and Applicability, the Department is proposing to amend the Section heading and add a new subsection (b) that exempts covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, and used in interstate commerce, from this Part. Covered farm vehicles used in intrastate commerce that, prior to MAP-21 were subject to the Illinois Vehicle Inspection Law (the Law) [625 ILCS 5/13], remain subject to the inspection requirements of the Law.

A new subsection (e) is being added at Section 396.2010 to clarify that covered farm vehicles used in interstate commerce cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is being provided pursuant to MAP-21 and 78 FR 16189, 3/14/13.

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- 6) Published studies or reports and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

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

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects small businesses that own or operate commercial motor vehicles in Illinois.
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
 - C) Types of professional skills necessary for compliance: No impact is anticipated.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 396
INSPECTION, REPAIR AND MAINTENANCE

Section

396.1000	<u>Purpose and Applicability</u> General
396.2000	Incorporation by Reference of 49 CFR 396
396.2010	Inspection of Vehicles in Operation

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. 15512, effective September 10, 1990; amended at 15 Ill. Reg. 13167, effective August 21, 1991; amended at 16 Ill. Reg. 14431, effective September 8, 1992; amended at 18 Ill. Reg. 749, effective January 11, 1994; amended at 19 Ill. Reg. 13046, effective August 30, 1995; amended at 20 Ill. Reg. 15340, effective November 18, 1996; amended at 23 Ill. Reg. 5101, effective March 31, 1999; amended at 24 Ill. Reg. 1949, effective January 19, 2000; amended at 25 Ill. Reg. 2097, effective January 17, 2001; amended at 26 Ill. Reg. 9014, effective June 5, 2002; amended at 27 Ill. Reg. 9257, effective June 2, 2003; amended at 29 Ill. Reg. 19271, effective November 10, 2005; amended at 32 Ill. Reg. 10440, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 396.1000 Purpose and Applicability**General**

- a) This Part prescribes the requirements for the inspection, repair and maintenance of commercial motor vehicles in Illinois.
- b) This Part does not apply to covered farm vehicles (as defined in 92 Ill. Adm. Code 390.1020) that are used in interstate commerce. (See 78 FR 16189, March 14, 2013.)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 396.2000 **Incorporation by Reference of 49 CFR 396**

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) 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, ~~2012, as amended by 78 FR 16189, March 14, 2013~~~~2006~~, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 N. 9th Street, Springfield, Illinois 62703~~~~215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703~~ or by calling ~~217/(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 refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.
- 1) 49 CFR 396.9 is deleted and not incorporated.
 - 2) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by 49 CFR 396.17.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 396.2010 Inspection of Vehicles in Operation

- a) Personnel ~~Authorized~~~~authorized~~ to ~~Perform Inspections~~~~perform inspections~~. The Illinois State Police are authorized to enter upon and perform commercial vehicle inspections (as defined in 92 Ill. Adm. Code 390.1020) of motor carrier vehicles in operation.
- b) Prescribed ~~Inspection Report~~~~inspection report~~ — ~~The~~~~the~~ Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) shall be used to record results of motor vehicle inspections conducted by Illinois State Police personnel.

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- c) Motor Vehicles ~~Declared~~ "Out-of-Service:"
- 1) Authorized Illinois State Police personnel shall declare and mark "out-of-service" any motor vehicle which meets the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020. An "out-of-service" vehicle sticker shall be used to mark vehicles "out-of-service."
 - 2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term "operate" as used in this subsection ~~(c)(2)~~ shall include towing the vehicle, except that vehicles marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out-of-service" vehicle shall not be operated until ~~thesuch~~ combination meets the performance requirements of the Illinois Motor Carrier Safety Regulations (ICMSR)MCSR (92 Ill. Adm. Code: Chapter 1, Subchapter d) except for those conditions noted on the ~~Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238)~~.
 - 3) No person shall remove the "out-of-service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out-of-service notice."
- d) Motor Carrier's ~~Disposition~~
- 1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
 - 2) Motor carriers shall examine the report. Violations or defects noted on the report shall be corrected.
 - 3) Within 15 days following the date of the inspection, motor carriers shall

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certify that all violations noted have been corrected by completing the reverse side of the ~~Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238)~~ and returning it to the Illinois State Police Commercial Vehicle Enforcement Bureau's address indicated on the report.

- 4) The motor carrier shall retain a copy of the ISP 5-238 at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

e) This Section does not apply to covered farm vehicles (as defined in 92 Ill. Adm. Code 390.1020) or to the drivers of those vehicles when the vehicles are used in interstate commerce.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

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Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that own operate commercial motor vehicles in Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: No impact is anticipated.
- C) Types of professional skills necessary for compliance: No impact is anticipated.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 397
TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING

Section

397.1000	General
397.1010	Application
397.1020	Incorporation By Reference of 49 CFR 397

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 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. 736, effective January 11, 1994; amended at 19 Ill. Reg. 13035, effective August 30, 1995; amended at 20 Ill. Reg. 15327, effective November 18, 1996; amended at 23 Ill. Reg. 5090, effective March 31, 1999; amended at 24 Ill. Reg. 1938, effective January 19, 2000; amended at 25 Ill. Reg. 2137, effective January 17, 2001; amended at 26 Ill. Reg. 9017, effective June 5, 2002; amended at 27 Ill. Reg. 9261, effective June 2, 2003; amended at 29 Ill. Reg. 19275, effective November 10, 2005; amended at 32 Ill. Reg. 10444, effective June 25, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 397.1020 Incorporation By Reference of 49 CFR 397

- a) The Department incorporates "Transportation of Hazardous Materials; Driving and Parking" (49 CFR 397) 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, ~~2012~~²⁰⁰⁶, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9th Street, Springfield, Illinois 62702 or by calling 217/785-1181~~3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are

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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) 49 CFR 397.1 is deleted and not incorporated.
- c) 49 CFR 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- e) The following addition to 49 CFR 397 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.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois Energy Conservation Code
- 2) Code Citation: 71 Ill. Adm. Code 600
- 3) Section Number: 600.120 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Commercial Building Act [20 ILCS 3125]
- 5) Effective Date of Rulemaking: July 23, 2013
- 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 rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 2748, March 15, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made between the proposed and final versions.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendment increases the number of persons representing the residential contracting industry on the Illinois Energy Conservation Advisory Council from one to two.

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NOTICE OF ADOPTED AMENDMENT

The additional member changes the quorum requirements and provides an even number of members on the Council. These issues are addressed by this amendment by revising the quorum requirement from six to seven members and only having the Chair vote to break a tie vote or to establish a quorum.

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

Lisa Mattingly
Administrator, Professional Services
Capital Development Board
401 South Spring Street
3rd Floor Stratton Building
Springfield, Illinois 62706

217/524-6408 (office)
217/524-4208 (fax)

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER d: ENERGY CODES

PART 600
ILLINOIS ENERGY CONSERVATION CODE

SUBPART A: GENERAL

Section	
600.100	Definitions
600.110	Adoption and Modification of the Code
600.120	Illinois Energy Conservation Advisory Council
600.130	Revisions to the Code

SUBPART B: STATE FUNDED FACILITIES

Section	
600.200	Standards for State Funded Facilities
600.210	Request for Variance
600.220	Compliance

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section	
600.300	Standards for Privately Funded Commercial Facilities
600.310	Exemptions
600.320	Local Jurisdiction
600.330	Compliance
600.340	Application to Home Rule Units

SUBPART D: RESIDENTIAL BUILDINGS

Section	
600.400	Standards for Residential Buildings
600.410	Exemptions
600.420	Local Jurisdiction
600.430	Compliance

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENT

600.440 Application to Home Rule Units

600.APPENDIX A Supplanted and Additional 2012 International Energy Conservation Code Sections

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 11355, effective July 26, 2004, for a maximum of 150 days; emergency rules expired December 22, 2004; adopted at 29 Ill. Reg. 777, effective January 1, 2005; new Part adopted by emergency rulemaking at 29 Ill. Reg. 5736, effective April 8, 2005, for a maximum of 150 days; emergency expired September 4, 2005; emergency rulemaking repealed at 29 Ill. Reg. 6093, effective April 18, 2005, for a maximum of 150 days; emergency expired September 14, 2005; old Part repealed at 29 Ill. Reg. 16414 and new Part adopted at 29 Ill. Reg. 14790, effective April 8, 2006; amended at 31 Ill. Reg. 14422, effective October 9, 2007; emergency amendment at 33 Ill. Reg. 12407, effective August 18, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16702, effective November 23, 2009; emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days; emergency expired June 27, 2010; amended at 34 Ill. Reg. 11398, effective July 26, 2010; amended at 37 Ill. Reg. 789, effective January 11, 2013; amended at 37 Ill. Reg. 12822, effective July 23, 2013.

SUBPART A: GENERAL

Section 600.120 Illinois Energy Conservation Advisory Council

- a) The Executive Director of the Capital Development Board shall appoint an Advisory Council. The Council shall be composed of the Executive Director or his or her authorized representative, who shall serve as Chairman ex-officio, and ~~1140~~ additional members appointed by the Executive Director. The appointed members shall consist of 1 person representing the Department of Commerce and Economic Opportunity; ~~2 persons~~~~1 person~~ representing the residential construction contracting industry; 2 licensed architects; 1 licensed mechanical engineer; 1 licensed electrical engineer; 2 persons representing local code officials; and 2 persons representing the construction contracting industry. Members of the Council shall be appointed for 4 year terms. The members appointed by the Executive Director shall serve for the term of their appointments and may be reappointed upon expiration of the term. Any member appointed to

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENT

fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

- b) The Council shall meet as frequently as the Chairman deems necessary, but at least once each year. Additional meetings may be called by the Chairman or by 3 members of the Council upon delivery of 10 days' written notice to the mailing address of each member of the Council. ~~Seven~~~~Six~~ members of the Council shall constitute a quorum. The Chairman shall only vote to break a tie or when necessary to establish a quorum.
- c) The purpose of the Council shall be to recommend modifications to the Illinois Energy Conservation Code.

(Source: Amended at 37 Ill. Reg. 12822, effective July 23, 2013)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Background Checks
- 2) Code Citation: 89 III. Adm. Code 385
- 3) Section Number: 385.APPENDIX A Adopted Action: Amend
- 4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v) and (v-1)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act (P.L. 109-248)
- 5) Effective Date of Rulemaking: July 30, 2013
- 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 rulemaking is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 36 Ill. Reg. 17278; December 14, 2012
- 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, JCAR amended the reference to the Criminal Code of 1961 in this version of the Rule to Criminal Code of 2012 with the agreement that the Department will amend Part 385 again to reflect the 2010 changes to the Criminal Code 1961 that were not incorporated into the Rule at this time.
- 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 rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The Adam Walsh Child Protection Act and Section v-1 of the Children and Family Service Act require the following amendments:
- A) Previous amendments to Part 385 neglected to amend Section 385.30 to clarify that all applicants for a foster family home license shall be subject to a criminal background check.
 - B) Relatives and all members of the household 17 years and older must be fingerprinted within 30 days after initial placement of a relative child for a criminal background check and for the worker to reach a final decision of placement within 90 days.

The Department is also amending Appendix A, Criminal Convictions, to provide the same waiver provisions granted to relatives in Sec. 7 of the Children and Family Service Act [20 ILCS 505/7] that were based on LEADS check findings only and to update the criminal conviction list by adding "*any violation of the Methamphetamine Control and Community Protection Act*" as stated in the Child Care Act.

- 16) Information and questions regarding this adopted rulemaking 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 Amendment begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATIONPART 385
BACKGROUND CHECKS

Section	
385.10	Purpose
385.20	Definitions
385.30	Applicability of This Part
385.40	Authorization for Background Checks
385.50	Child Abuse or Child Neglect
385.60	Criminal Convictions and Pending Criminal Charges
385.70	Disposition of Background Checks
385.80	Appeal of Decision to Deny License or Permit Based on Background Check Information
385.90	Records to be Maintained by the Child Care Facility
385.100	Confidentiality of Background Check Information
385.110	Severability of This Part
385.APPENDIX A	Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives
385.APPENDIX B	Matrix of Persons Subject to Background Checks Under Part 385

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act (42 USC 16911).

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 13432, effective September 30, 2004; amended at 33 Ill. Reg. 4117, effective February 27, 2009;

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amended at 36 Ill. Reg. 2136, effective January 30, 2012; amended at 37 Ill. Reg. 12827, effective July 30, 2013.

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Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives

- a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates
- If any person subject to background checks has been included in the Illinois Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of ~~2012~~¹⁹⁶¹ [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in 89 Ill. Adm. Code 402.Appendix A (Criminal Convictions Which Prevent Licensure), which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that allows access to children in any child care facility subject to licensing, or providing services that allow unsupervised access to children include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

- *Murder*
- *Solicitation of murder*
- *Solicitation of murder for hire*

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- *Intentional homicide of an unborn child*
- *Voluntary manslaughter of an unborn child*
- *Involuntary manslaughter*
- *Reckless homicide*
- *Concealment of a homicidal death*
- *Involuntary manslaughter of an unborn child*
- *Reckless homicide of an unborn child*
- *Drug induced homicide [225 ILCS 10/4.2(b)]*

KIDNAPPING AND RELATED OFFENSES

- *Kidnapping*
- *Aggravated kidnapping*
- *Aggravated unlawful restraint*
- *Forcible detention*
- *Child abduction*
- *Aiding and abetting child abduction*
- *Harboring a runaway [225 ILCS 10/4.2(b)]*

SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961
OR 2012, EXCEPT OFFENSES DESCRIBED IN SECTIONS 11-7, 11-8, 11-12,
~~AND~~ 11-13, 11-35, 11-40 AND 11-45

- *Indecent solicitation of a child*
- *Indecent solicitation of an adult*
- *Public indecency*
- *Sexual exploitation of a child*
- *Custodial sexual misconduct*
- *Presence within school zone by child sex offenders*
- *Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders*
- *Sexual relations within families*
- *Prostitution*
- *Soliciting for a prostitute*
- *Soliciting for a juvenile prostitute*
- *Solicitation of a sexual act*
- *Pandering*
- *Keeping a place of prostitution*

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- *Keeping a place of juvenile prostitution*
- *Patronizing a prostitute*
- *Patronizing a minor engaged in prostitution~~juvenile prostitute~~*
- *Pimping*
- *Juvenile pimping*
- *Exploitation of a child*
- *Obscenity*
- *Child pornography*
- *Harmful material*
- *Tie-in sales of obscene publications to distributors*
- *Posting of identifying information on a pornographic internet site [720 ILCS 5/Art. 11]*

BODILY HARM

- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of a child*
- *Tampering with food, drugs, or cosmetics*
- *Hate crime*
- *Stalking*
- *Aggravated stalking*
- *Threatening public officials*
- *Home invasion*
- *Vehicular invasion*
- *Drug induced infliction of great bodily harm*
- *Criminal sexual assault*
- *Aggravated criminal sexual assault*
- *Predatory criminal sexual assault of a child*
- *Criminal sexual abuse*
- *Aggravated sexual abuse*
- *Criminal transmission of HIV*
- *Criminal abuse or neglect of an elderly or disabled person*
- *Child abandonment*
- *Endangering the life or health of a child*
- *Ritual mutilation*
- *Ritualized abuse of a child*
- *Any violation of the Methamphetamine Control and Community Protection*

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Act [720 ILCS 646] [225 ILCS 10/4.2(b)]

Final approval for licensure shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault or homicide, but not including other felony convictions for physical assault or battery, or if there is a felony conviction for physical assault, battery or a drug-related offense committed within the past 5 years. [20 ILCS 505/5(v-1) and (v-2)]

Waiver of Convictions for Placement with Relatives

Criminal convictions that were waived by the Director for the initial placement in accordance with provisions in Section 7(b) of the Children and Family Services Act [20 ILCS 505/7(b)] and 89 Ill. Adm. Code 301.Appendix A(b) and (c) are deemed waived for a final placement decision. If additional criminal convictions appear as a result of the fingerprint results, a new waiver request shall be submitted to the Director or designee.

b) Additional Convictions that Bar Licensure of or Employment in a Child Care Facility

In addition to the requirements of subsection (a), no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses:

OFFENSES DIRECTED AGAINST THE PERSON

BODILY HARM

- *Felony aggravated assault*
- *Vehicular endangerment*
- *Felony domestic battery*
- *Aggravated battery*
- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of an unborn child*

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- *Aggravated battery of a senior citizen*
- *Intimidation*
- *Compelling organization membership of persons*
- *Abuse and gross neglect of a long term care facility resident*
- *Felony violation of an order of protection*

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- *Felony unlawful use of weapons*
- *Aggravated discharge of a firearm*
- *Reckless discharge of a firearm*
- *Unlawful use of metal piercing bullets*
- *Unlawful sale or delivery of firearms on the premises of any school*
- *Disarming a police officer*
- *Obstructing justice*
- *Concealing or aiding a fugitive*
- *Armed violence*
- *Felony contributing to the criminal delinquency of a juvenile*

DRUG OFFENSES

- *Possession of more than 30 grams of cannabis*
- *Manufacture of more than 10 grams of cannabis*
- *Cannabis trafficking*
- *Delivery of cannabis on school grounds*
- *Unauthorized production of more than 5 cannabis sativa plants*
- *Calculated criminal cannabis conspiracy*
- *Unauthorized manufacture or delivery of controlled substances*
- *Controlled substance trafficking*
- *Manufacture, distribution or advertisement of look-alike substances*
- *Calculated criminal drug conspiracy*
- *Street gang criminal drug conspiracy*
- *Permitting unlawful use of a building*
- *Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property*
- *Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances*

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- *Delivery of controlled substances*
- *Sale or delivery of drug paraphernalia*
- *Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection*
- *Felony possession of a controlled substance [225 ILCS 10/4.2(b-1)]*

c) In addition to any other provision of this Section, for applicants with access to confidential financial information or who submit documentation to support billing, no applicant whose initial application was considered after July 31, 2012 may receive a license from the Department or a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following felony offenses:

- 1) *financial institution fraud under Section 17-10.6 of the Criminal Code of 2012;*
- 2) *identity theft under Section 16-30 of the Criminal Code of 2012;*
- 3) *financial exploitation of an elderly person or a person with a disability under Section 17-56 of the Criminal Code of 2012;*
- 4) *computer tampering under Section 17-51 of the Criminal Code of 2012;*
- 5) *aggravated computer tampering under Section 17-52 of the Criminal Code of 2012;*
- 6) *computer fraud under Section 17-50 of the Criminal Code of 2012;*
- 7) *deceptive practices under Section 17-1 of the Criminal Code of 2012;*
- 8) *forgery under Section 17-3 of the Criminal Code of 2012;*
- 9) *State benefits fraud under Section 17-6 of the Criminal Code of 2012;*
- 10) *mail fraud and wire fraud under Section 17-24 of the Criminal Code of 2012;*

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11) *theft under Section 16-1(1.1) through (11) of the Criminal Code of 2012. [225 ILCS 10.4.2(b-1.5)]*

de) Exception Applicable to Child Care Facilities Other than Foster Family Homes
Notwithstanding subsection (a), *the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was convicted of an offense described in subsection (b), provided that all of the following requirements are met:*

- 1) *The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*
- 2) *The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance with Section 385.60(d), (e) and (f) and determine if a waiver is applicable in accordance with subsection (de)(1);*
- 3) *The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility. [225 ILCS 10/4.2(b-2)]*

(Source: Amended at 37 Ill. Reg. 12827, effective July 30, 2013)

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- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
104.202	Amendment
104.205	New Section
104.210	Amendment
104.221	Amendment
104.235	Amendment
104.244	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rulemaking: July 24, 2013
- 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 rulemaking, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18090
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following changes have been made:

In subsection 104.205(e) of Part 104, changed both commas to hyphens and changed "~~Hearings Section and the Bureau of Administrative Litigation, Office of Inspector General~~" to "Hearings Section and the Office of Inspector General-Bureau of Administrative Litigation".

In subsection 104.210(a)(4) of Part 104, deleted the entire subsection (a)(4) that read: "~~the Department's intent to certify past due support owed by a responsible relative to, or~~

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~~failure to comply with a subpoena or warrant from, a State licensing agency and the licensing agency's intent to take disciplinary action (as provided in Section 104.209); or"~~
and renumbered "104.210(a)(5)" to "104.210(a)(4)".

In subsection 104.221(f) of Part 104 deleted the entire subsection (f) that read: "~~The only issues at a hearing initiated pursuant to Section 104.209 are whether the responsible relative has or is applying for a license, the amount if any, of delinquent child support owed pursuant to a support order entered by a court or administrative body, whether the responsible relative failed to comply with a subpoena or warrant.~~"

In subsection 104.221 of Part 104 changed "104.221(h)" to "104.221(i)"

In subsection 104.244(e) of Part 104 deleted "~~In hearings initiated pursuant to Section 104.209, a party alleging that the support order referenced in the notice has subsequently been modified shall have the burden of producing a certified copy of the modified order.~~"

The last 4 changes remove language referencing a Section (104.209) that was repealed in 2011 but not been replaced.

- 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 rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 104 is being amended to comply with the SMART Act, PA 97-0689.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEALS

Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.30	Subpoenas
104.35	Amendment of Appeal
104.40	Consolidation of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.74	Surety Bonds
104.75	Immediate Suspension of a Vendor
104.80	Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

104.100	Support Order, Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or

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- Child Support Proceeding or of Share of Jointly-Owned Federal or State Income
Tax Refunds or Other Joint Federal or State Payments
- 104.104 Conduct of Other Hearings
- 104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity
Orders
- 104.106 Conduct of Hearings on Petitions for Family Financial Responsibility Driving
Permits
- 104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal
Property

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

- Section
- 104.200 Applicability
- 104.202 Definitions
- 104.204 Notice of Denial of An Application
- 104.205 Notice of Appeal for Ground Ambulance Service Provider
- 104.206 Notice of Intent to Recover Money
- 104.207 Notice of Contested Paternity Hearing
- 104.208 Notice of Intent to Terminate, Suspend, Exclude or Not Renew Provider
Agreement or to Revoke Alternate Payee
- 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to,
or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency
and to Take Disciplinary Action (Repealed)
- 104.210 Right to Hearing
- 104.211 Notice of Termination or Suspension Pursuant to Exclusion by the Department of
Health and Human Services
- 104.212 Prior Factual Determinations
- 104.213 Demand for Judicial Determination of the Existence of the Father and Child
Relationship
- 104.215 Notice of Formal Conference
- 104.216 Formal Conference on Recovery of Money
- 104.217 Purpose of Formal Conference
- 104.220 Notice of Hearing
- 104.221 Issues at Hearings
- 104.225 Legal Counsel
- 104.226 Appearance of Attorney or Other Representative
- 104.230 Notice, Service and Proof of Service

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104.231	Form of Papers
104.235	Discovery
104.240	Conduct of Hearings
104.241	Amendments
104.242	Motions
104.243	Subpoenas
104.244	Burden of Proof
104.245	Witness at Hearings
104.246	Evidence at Hearings
104.247	Cross-Examination
104.248	Disqualification of Hearing Officers
104.249	Genetic Testing in Contested Paternity Hearings
104.250	Official Notice
104.255	Computer Generated Documents
104.260	Recommendation of Peer Review Committee
104.270	Time Limits for Hearings
104.271	Continuances and Extensions
104.272	Withholding of Payments and Release of Withholds
104.273	Continuation of Payments During Pendency of Proceedings
104.274	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST
SKILLED NURSING FACILITIES AND INTERMEDIATE CARE
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section	
104.300	Authority
104.302	Definitions
104.304	Department Actions Against Nursing Homes Facilities
104.310	Certification
104.320	Joint Administrative Hearing
104.330	Facilities Certified Under Both Medicare and Medicaid

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

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Section

104.400	Suspected Intentional Violation of the Program
104.410	Advance Notice of Administrative Disqualification Hearing
104.420	Postponement of Hearing
104.430	Administrative Disqualification Hearing Procedures
104.440	Failure to Appear
104.450	Participation While Awaiting a Hearing
104.460	Consolidation of Administrative Disqualification Hearing with Fair Hearing
104.470	Administrative Disqualification Hearing Decision and Notice of Decision
104.480	Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section

104.800	Incorporation by Reference
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SUBPART G: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

104.900	Unauthorized Use of Medical Assistance
104.910	Definitions
104.920	Applicability
104.930	Notice of Intent to Recover Money
104.940	Request for Hearing
104.950	Representation
104.960	Conduct of Hearings
104.970	Recommended Decision
104.980	Final Administrative Decision

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80,

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effective May 8, 1980; preemptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. 2030, effective January 21, 2011; amended at 35 Ill. Reg. 12900, effective July 25, 2011; amended at 36 Ill. Reg. 7530, effective May 7, 2012; amended at 36 Ill. Reg. 9086, effective June 11, 2012; emergency

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amendment at 36 Ill. Reg. 10195, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10172, effective June 27, 2013; amended at 37 Ill. Reg. 12838, effective July 24, 2013.

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

Section 104.202 Definitions

For the purpose of this Part, the terms "Vendor", "Entity", "Alternate Payee", and "Department policy" shall be as defined at 89 Ill. Adm. Code 140.13. "Ground Ambulance Service Provider" shall be as defined at 89 Ill. Adm. Code 140.490(a)(1). A Ground Ambulance Service Provider is a "Vendor" as that term is applied in this Part unless otherwise specified.

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)

Section 104.205 Notice of Appeal for Ground Ambulance Service Provider

- a) Appeals filed by a Ground Ambulance Service Provider for the reasons set forth in 89 Ill. Adm. Code 140.491(h) shall proceed pursuant to this Section.
- b) The appeal process is initiated by the Ground Ambulance Service Provider filing a written, signed request for appeal with the Department's Bureau of Comprehensive Health Services within 60 calendar days after the date of the decision rendered pursuant to 89 Ill. Adm. Code 140.491(h) is received by the Ground Ambulance Service Provider.
- c) The request for appeal shall include:
 - 1) a copy of the decision issued by the Department or its agent;
 - 2) proof of the date the decision is received;
 - 3) a brief statement of the issue on appeal; and
 - 4) documentation supporting the appeal request. Any documentation that was not previously submitted to the Department or its agent prior to the decision rendered in 89 Ill. Adm. Code 140.491(h) must be designated as not having been previously submitted.

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- d) The Bureau of Comprehensive Health Services or its prior approval agent shall conduct an informal review of the request for appeal, including a review of all documentation submitted under subsection (c) and within 60 calendar days issue the Department's written decision (the 205(d) decision) to reverse, modify or affirm the Department's initial decision.
- e) If the Department's initial decision is affirmed, the Ground Ambulance Service Provider may request a hearing on the Department's 205(d) decision in accordance with Section 104.210 by filing a written, signed request for a hearing with the Office of General Counsel-Bureau of Administrative Hearings-Vendor Hearings Section and the Office of Inspector General-Bureau of Administrative Litigation.
- 1) This request for hearing must be received by the Department within 10 days after the date on which the Department's 205(d) decision is received by the Ground Ambulance Service Provider. If such a request is not received by the Department within 10 days, or is received but later withdrawn, the Department's 205(d) decision shall be a final and binding administrative determination.
- 2) Upon timely request for hearing, the Bureau of Administrative Hearings shall conduct an administrative hearing in accordance with Sections 104.220 through 104.295, as applicable.
- 3) Documentary evidence submitted for the hearing shall be limited to documents submitted to the Department or its prior approval agent for informal review in accordance with Section 104.205(d) unless good cause is shown.

(Source: Added at 37 Ill. Reg. 12838, effective July 24, 2013)

Section 104.210 Right to Hearing

- a) An entity may request a hearing within 10 days after the entity's receipt of the Department's notice of:
- 1) the Department's decision to deny an application (as provided in Section 104.204);

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- 2) the Department's intent to recover money (as provided in Section 104.206); ~~or~~
 - 3) the Department's intent to terminate or suspend a vendor's eligibility or terminate (or not renew) a vendor's provider agreement or revoke an alternate payee (as provided in Section 104.208);~~;~~
 - 4) the Department's written decision issued pursuant to Section 104.205(d).
- b) A request for hearing must be received by the Department within 10 days after the date on which the vendor or alternate payee received the Department's notice.
 - c) This request must be in writing and must contain a brief statement of the basis upon which the Department's action is being challenged.
 - d) If the request is not received within 10 days, or is received but later withdrawn, the Department's decision and the grounds asserted in the notice as the basis for that decision shall be a final and binding administrative determination.
 - e) In actions initiated pursuant to Section 104.206 or 104.208(b), if a vendor or alternate payee requests a hearing, that request shall not delay the effective date of action set forth in the notice. In all other actions initiated pursuant to Section 104.204 or 104.208(a), (d) or (e), the action shall not take place until the final administrative decision has been issued.
 - f) A long term care facility may request a hearing within 60 days after receipt of the Department's notice on any action initiated pursuant to Section 104.208(c) or (d). For a nursing home (not an ICF/MR facility), the request shall not delay the effective date of action set forth in the notice pursuant to Section 104.208(c).

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)

Section 104.221 Issues at Hearings

- a) The sole issue at a hearing in which the basis for denial of an application pursuant to 89 Ill. Adm. Code 140.14(d) is that the vendor does not have a necessary license, certificate or authorization shall be whether the vendor has such a license,

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certificate or authorization.

- b) The sole issue at a hearing in which the basis of the denial of an application is as set forth in 89 Ill. Adm. Code 140.14(b) shall be whether the vendor has demonstrated, according to the factors listed in that Section, in light of the prior activities, that he or she should be admitted to the Medical Assistance Program.
- c) Effective July 1, 2012, the only issues at a hearing in which the basis of the denial of an application is as set forth in:
 - 1) 89 Ill. Adm. Code 140.14(e)(1) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership applicant, or a technical or other advisor to the applicant has a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by the applicant.
 - 2) 89 Ill. Adm. Code 140.14(e)(2) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership vendor applicant, or a technical or other advisor to the applicant was a person with management responsibility, an officer or member of the board of directors of an applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an owner of a sole proprietorship, a partner in a partnership vendor, or a technical or other advisor to a vendor during the period of time when the conduct of that vendor resulted in a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by that vendor.
 - 3) 89 Ill. Adm. Code 140.14(e)(3) shall be whether the allegation of the use, transfer or lease of assets of any kind to the applicant from a current or

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prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.

- 4) 89 Ill. Adm. Code 140.14(e)(4) shall be whether the allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.
 - 5) 89 Ill. Adm. Code 140.14(e)(5) shall be whether the allegation of the use, transfer or lease of assets of any kind to an applicant who is a spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, relative by marriage, or relative of a current or prior vendor who has a debt owed to the Department is credible and/or whether payment arrangements acceptable to the Department have been made.
 - 6) 89 Ill. Adm. Code 140.14(e)(6) shall be whether the allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the Medical Assistance Program poses a risk of fraud, waste or abuse to the Department is credible.
- d) The sole issue at a hearing in which the basis for termination is as set forth in 89 Ill. Adm. Code 140.16(a)(2) shall be whether the appropriate licensing, certifying or authorizing agency has determined that the vendor does not have a necessary license, certification or authorization.
- e) The sole issue at a hearing requested by a previously suspended vendor that is being terminated pursuant to 89 Ill. Adm. Code 140.19(b) shall be whether the vendor has corrected the deficiencies on which the suspension was based.
- f) At a hearing conducted pursuant to Subpart D of this Part, the sole relevant time

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with respect to the existence of the violations of the Department's requirements alleged in the notice shall be the date or dates in the notice.

- g) The only issue at a hearing initiated pursuant to 89 Ill. Adm. Code 140.16(c) is whether the vendor is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission.
- h) Effective July 1, 2012, the sole issue at a hearing requested by a person or entity with a debt due the State pursuant to Section 12-4.25(F-15)(3) of the Public Aid Code shall be whether the person or entity has failed to comply with judgment on which the debt is based.
- i) The only issue at a hearing initiated pursuant to Section 104.205 and 89 Ill. Adm. Code 140.491(h) is whether the Department was in error when it denied a request for approval for payment of non-emergency transportation by means of ground ambulance service or granted a request for approval of non-emergency transportation by means of ground ambulance service at a level of service that entitles the Ground Ambulance Service Provider to a lower level of compensation than the Ground Ambulance Service Provider would have received as compensation for the level of service requested.

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)

Section 104.235 Discovery

- a) There shall be no discovery under this Part except for the following items if relevant to the case:
 - 1) The Department shall provide, upon request, to the vendor:
 - A) lists of witnesses;
 - B) the provider detail report, the drug inventory report, the claim detail report, if applicable;
 - C) in actions against a nursing home based upon Department of Public Health surveys, all surveys that federal or State regulations require

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surveyors to complete during the investigation;

- D) transcripts of that portion of peer review committee proceedings wherein the vendor appears, not including the committee's deliberations, if applicable;
 - E) resolutions of a peer review committee regarding the vendor, if applicable;
 - F) any report regarding the vendor prepared by the Bureau of Medicaid Integrity's medical consultant witness, if applicable; and
 - G) any exhibits or documents that may be identified at hearing.
- 2) The Department shall provide, upon request, to the alternate payee:
- A) lists of witnesses;
 - B) the provider detail report and the claim detail report, if applicable; and
 - C) any exhibits or documents that may be identified at hearing.
- 3) The vendor and/or alternate payee shall provide, upon request, to the Department:
- A) a list of witnesses and all reports written by each witness concerning the issue about which he or she is testifying; and
 - B) a copy of exhibits and documents that may be identified at hearing.
- b) Requests for discovery shall be made no later than the 21st day after receipt of the notice described in Sections 104.204 and 104.206 through 104.208, or request of a hearing described in Section 104.205(e), or none later than the 21st day after amendment, pursuant to Section 104.241, of the grounds for the action that would make discovery of any of the items listed in subsection (a) relevant for the first time.

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- c) Discovery is to be provided to the requesting party within 21 days after service of a request. In no event shall a scheduled hearing be continued because of an untimely discovery request without good cause having been shown.
- d) Each party has a duty to seasonably supplement its witness list and documentary evidence that may be used at hearing. The administrative law judge may exclude witnesses or evidence absent a showing of good cause as to why the discovery was not tendered in response to the original discovery request.

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)

Section 104.244 Burden of Proof

- a) Effective July 1, 2012, the burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.14 shall be on the Department if the application was denied because the vendor engaged in activities that constitute grounds for termination or was denied pursuant to 89 Ill. Adm. Code 140.14(c). The burden of proof shall be on the applicant if the application was denied because of:
 - 1) a determination that a previously terminated or barred vendor cannot reasonably be expected to meet the requirements of the Department;
 - 2) a determination that, based on the activities that served as the basis for terminating or barring a vendor, the application should not be approved; or
 - 3) denial of the eligibility of the applicant pursuant to 89 Ill. Adm. Code 140.14(e).
- b) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.15 or Subpart D of this Part shall be on the Department.
- c) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.16 shall be on the Department.
- d) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.32 shall be on the party seeking special permission, and in hearings conducted pursuant to 89 Ill. Adm. Code 140.19(b) shall be on the vendor.

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- e) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof with respect to that new matter shall be upon the party that alleges the new matter.
- f) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.491(h) shall be on the Ground Ambulance Service Provider.
- gf) The standard of proof with respect to all hearings conducted pursuant to this Part shall be a preponderance of the evidence.

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.491 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 97-0689
- 5) Effective Date of Rulemaking: July 24, 2013
- 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 rulemaking, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18105
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following change has been made:

In Section 140.491(h), changed subsection "(h)" to "(j)"
- 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 rulemakings currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation</u>
140.24	Amendment	37 Ill. Reg. 3362; March 22, 2013
140.28	Amendment	37 Ill. Reg. 3362; March 22, 2013
140.481	Amendment	37 Ill. Reg. 5243; April 26, 2013

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140.55	Amendment	37 Ill. Reg. 7078; May 24, 2013
140.80	Amendment	37 Ill. Reg. 10941; July 19, 2013

- 15) Summary and Purpose of Amendment: This rulemaking sets forth the procedure for a Ground Ambulance Service Provider's appeal of a transportation approval decision issued by the Department or its agent.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

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

SUBPART C: PROVIDER ASSESSMENTS

Section

- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund

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140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)

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- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services

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140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Diagnostic Imaging Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
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140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Care, Nursing and Public Health Providers
140.471	Description of Home Health Care Services
140.472	Types of Home Health Care Services
140.473	Prior Approval for Home Health Care Services

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- 140.474 Payment for Home Health Care Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at

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8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a

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maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg.

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3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill.

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Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995;

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amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill.

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Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at

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30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended

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at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.491 Limitations on Medical Transportation

- a) For payment to be made, the transportation service must be to the nearest available appropriate provider, by the least expensive mode that is adequate to meet the individual's need. When public transportation is available and is a practical form of transportation, payment will not be made for a more expensive mode of transportation.
- b) Approval from the Department, or its authorized agent, is required prior to providing transportation to and from the source of medical care, except:
 - 1) For transportation provided by an ambulance in emergency situations.
 - 2) For transportation provided by an ambulance for an individual who is transported from one hospital to a second hospital for services not available at the sending hospital.

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- 3) For transportation provided by a helicopter when it is demonstrated to be medically necessary as indicated by the written order of the responsible physician in an emergency situation. An emergency may include, but is not limited to:
 - A) life threatening medical conditions;
 - B) severe burns requiring treatment in a burn center;
 - C) multiple trauma;
 - D) cardiogenic shock; and
 - E) high-risk neonates.
- c) Requirements for non-emergency ambulance services for discharging patients, medical certifications and orders, for dates of service beginning July 1, 2013.
 - 1) Whenever a patient covered by a medical assistance program under this Part, or by another medical program administered by the Department, is being discharged from a facility, a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, who is responsible for the diagnosis and treatment of the patient, shall complete a written and signed discharge order for each patient whose discharge requires medically supervised ground ambulance services. The order shall specify the level of ground ambulance services needed.
 - 2) A medical certification establishing that the patient's condition meets the Department's criteria for approval of non-emergency ambulance service, as set forth in Table A, must be completed by a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, who is responsible for the diagnosis and treatment of the patient. Should the medical certification form, published by the Department, serve as the discharge order, it must be signed or authenticated, as allowed under

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Illinois law, by a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff.

- 3) Each physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, may designate another licensed healthcare provider or discharge planner, not employed by a transportation provider, to complete the medical certification form. The physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, remains responsible for the accuracy of the medical certification, authentication of the discharge order, and any determination that the patient's condition meets the requirements for the Department's criteria for non-emergency ambulance transports, as set forth in Table A.
- 4) Facilities shall develop procedures to ensure the completion of the discharge order and the medical certification prior to the patient's discharge from the facility and prior to the non-emergency ambulance service.
- d) To be eligible for non-emergent ambulance transportation, the services must meet the criteria set forth in Table A.
- e) An on-going prior approval, with duration of up to six months, may be obtained when subsequent trips to the same medical source are required. When prior approval is sought for subsequent trips to the same medical service, the client's physician or other medical provider must supply the Department, or its authorized agent, with a brief written statement describing the nature of the medical need, the necessity for on-going visits, already established appointment dates and the number and expected duration of the required on-going visits.
- f) The Department shall refuse to accept requests for non-emergency transportation authorizations, including prior approval and post-approval requests, and shall

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terminate prior approvals for future dates, for a specific non-emergency transportation vendor, if:

- 1) the Department has initiated a notice of termination of the vendor from participation in the Medical Assistance Program; or
- 2) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation; or
- 3) the Department has issued notification of its withholding of payments based upon any of the following individuals having been indicted or otherwise charged under a law of the United States or Illinois or any other state with a felony offense that is based upon alleged fraud or willful misrepresentation on the part of the individual related to:
 - A) the Medical Assistance Program;
 - B) a Medical Assistance Program provided in another state that is of the kind provided in Illinois;
 - C) the Medicare program under Title XVIII of the Social Security Act; or
 - D) the provision of health care services:
 - i) if the vendor is a corporation, an officer of the corporation or an individual who owns, either directly or indirectly, five percent or more of the shares of stock or other evidence of ownership of the corporation; or
 - ii) if the vendor is a sole proprietorship, the owner of the sole proprietorship; or
 - iii) if the vendor is a partnership, a partner of the partnership; or

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- iv) if the vendor is any other business entity authorized by law to transact business in the state, an officer of the entity or an individual who owns, either directly or indirectly, five percent or more of the evidences of ownership of the entity.
- g) If it is not possible to obtain prior-approval for non-emergency transportation, post-approval must be requested from the Department or its authorized agent.
- h) Post-approval may be requested for items or services provided during Department non-working hours or non-working hours of its agents, whichever is applicable, or when a life threatening condition exists and there is not time to call for approval.
- i) To be eligible for post-approval consideration, the requirements for prior-approval must be met and post-approval requests must be received by the Department or its agents, whichever is applicable, no later than 20 work days after the date services are provided. A request for payment submitted to a third party payor will not affect the submission time frames for any post-approval request. Exceptions to the aforementioned post-approval request time frames will be permitted only in the following circumstances:
 - 1) The Department or the Department of Human Services has received the patient's Medical Assistance Application, but approval of the application has not been issued as of the date of service. In such a case, the post-approval request must be received no later than 90 days after the date of the Department's Notice of Decision approving the patient's application.
 - 2) The patient did not inform the provider of his or her eligibility for Medical Assistance. In such a case, the post-approval request must be received no later than six months after the date of service, but will be considered for payment only if there is attached to the request a copy of the provider's dated private pay bill or collection response, which was addressed and mailed to the patient each month after the date of service.
- j) [An ambulance provider as described in Section 140.490\(a\)\(1\) may appeal any decision by the Department or its prior approval agent for which no denial was received prior to the time of the non-emergency transport that either denies a request for approval for payment of non-emergency transportation by means of ground ambulance service or grants a request for approval of non-emergency](#)

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transportation by means of ground ambulance at a level of service that entitles the ground ambulance service provider to a lower level of compensation from the Department than the ground ambulance service provider would have received as compensation for the level of service requested. The ground ambulance service provider shall have 60 calendar days from the date the decision is received to file an appeal in accordance with 89 Ill. Adm. Code 104.205. The decision date will appear on notices generated by the Department or its prior approval agent related to approvals and denials of non-emergency transportation services.

(Source: Amended at 37 Ill. Reg. 12855, effective July 24, 2013)

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- 1) Heading of the Part: Air Quality Standards
- 2) Code citation: 35 Ill. Adm. Code 243
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
243.101	Amend
243.102	Amend
243.103	Amend
243.104	Repeal
243.105	New Section
243.106	Repeal
243.107	Amend
243.108	Amend
243.120	Amend
243.122	Amend
243.123	Amend
243.124	Amend
243.125	Amend
243.126	Amend
243.Appendix A	Repeal
243.Appendix B	Repeal
243.Appendix C	Repeal
243.Table A	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27
- 5) Effective date of rulemaking: July 29, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. All incorporations by reference are centrally located in Section 243.108 for the purposes of all provisions in Part 243. The present amendments remove existing incorporations by reference and add new incorporations by reference.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted July 25, 2013 in docket R13-11, and all materials incorporated by

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reference are on file at the Board's principal office and are available for public inspection and copying.

- 9) Notice of proposal published in the Illinois Register: May 16, 2013; 37 Ill. Reg. 7316
- 10) Has JCAR issued a statement of objection to this rulemaking? No. Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of July 25, 2013 in docket R13-11 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated May 16, 2013, in docket R13-11. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to corrections to the text of the rules, including removal of the 1979 primary one-hour NAAQS for ozone, which applies to no area of Illinois, and several minor corrections prompted by JCAR review of the text. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the board and JCAR been made as indicated in the agreements issued by JCAR? N/A

Since the Notices of Proposed Amendments appeared in the May 31, 2013 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of July 25, 2013 in docket R13-11, as indicated in item 11 above. See the July 25, 2013 opinion and order in docket R13-11 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of amendments: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of May 16, 2013, adopting amendments in docket R13-11, which opinion and order is available from the address below.

The R13-11 proceeding relates to the Illinois ambient air quality requirements in 35 Ill. Adm. Code 243 of the Illinois air pollution control rules. These amendments would update the Illinois ambient air quality requirements to correspond with the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted through December 31, 2012. The Federal NAAQS are codified at 40 C.F.R. 50.

Tables appear in the Board's opinion and order of July 25, 2013 in docket R13-11 that list a limited number of corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the July 25, 2013 opinion and order in docket R13-11.

- 16) Information and questions regarding these adopted amendments shall be directed to:
Please reference consolidated docket R13-11 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924

Request copies of the Board's opinion and order of July 25, 2013 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER I: AIR QUALITY STANDARDS AND EPISODESPART 243
AIR QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section	
243.101	Definitions
243.102	<u>Scope</u> Preamble
243.103	Applicability
243.104	Nondegradation (<u>Repealed</u>)
<u>243.105</u>	<u>Air Quality Monitoring Data Influenced by Exceptional Events</u>
243.106	Monitoring (<u>Repealed</u>)
243.107	Reference Conditions
243.108	Incorporations by Reference

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section	
243.120	PM ₁₀ and PM _{2.5}
243.121	Particulates (<u>Repealed</u>)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	<u>Nitrogen Oxides</u> (Nitrogen Dioxide <u>as Indicator</u>)
243.125	8-Hour Ozone
243.126	Lead
243.APPENDIX A	Rule into Section Table (<u>Repealed</u>)
243.APPENDIX B	Section into Rule Table (<u>Repealed</u>)
243.APPENDIX C	Past Compliance Dates (<u>Repealed</u>)
<u>243.TABLE A</u>	<u>Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS</u>

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the

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Environmental Protection Act [415 ILCS 5/7.2, 10 and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R80-11, 46 PCB 125, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013.

SUBPART A: GENERAL PROVISIONS

Section 243.101 Definitions

For the purposes of this Part, terms listed below will have the meanings attributed to them in this Section. As used in this Part, all terms not defined in this Section will have the meaning given them by the Act; the CAA, incorporated by reference in Section 243.108; or 35 Ill. Adm. Code 201.102.

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Clean Air Act" or "CAA" means the federal Clean Air Act (42 USC 7401 et seq., as amended), incorporated by reference in Section 243.108.

"Exceedance of a NAAQS" means one occurrence of a measured or modeled concentration that exceeds the specified concentration level of NAAQS for the averaging period specified by the standard.

"Exceptional event" means an event that fulfills all of the following criteria:

The event affects air quality;

The event is not reasonably controllable or preventable;

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The event is caused by human activity that is unlikely to recur at a particular location or a natural event; and

The event is determined by USEPA in accordance with 40 CFR 50.14 to be an exceptional event.

An "exceptional event" does not include any of the following:

Stagnation of air masses or meteorological inversions;

A meteorological event involving high temperatures or lack of precipitation; or

Air pollution relating to source noncompliance.

"Federal equivalent method" or "FEM" means a method for measuring the concentration of an air pollutant in the ambient air that USEPA has designated as an equivalent method pursuant to 40 CFR 53 and which is included in the List of Designated Methods, including later updates, as incorporated by reference in Section 243.108; the term "federal equivalent method" does not include a method for which USEPA has cancelled or superseded an equivalent method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of "equivalent method"), 50.11(d)(2) (parenthetical definition of "FEM"), and 53.1 (definition of "federal equivalent method"). The clause "including later updates" in this definition is intended to exclude methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the updates to List of Designated Methods incorporated by reference in Section 243.108. A federal designation of an FEM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FEM becomes effective upon deletion from the listing of FEMs.

"Federal reference method" or "FRM" means a method of sampling and analyzing the ambient air for an air pollutant that USEPA has specified as a reference method in an appendix to 40 CFR 50, incorporated by reference in Section 243.108, or a method that USEPA has designated as a reference method pursuant to 40 CFR 53 and which is included in the List of Designated Methods, including

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later updates, incorporated by reference in Section 243.108; the term "federal reference method" does not include a method for which USEPA has cancelled or superseded a reference method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of "reference method") and 53.1 (definition of "federal reference method"). The clause "including later updates" in this definition is intended to include methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the updates to List of Designated Methods incorporated by reference in Section 243.108. A federal designation of an FRM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FRM becomes effective upon deletion from the listing of FRMs or from an appendix to 40 CFR 50.

"Micrograms per cubic meter" or " $\mu\text{g}/\text{m}^3$ " means one millionth (10^{-6}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition and that for "milligrams per liter".

"Milligrams per cubic meter" or " mg/m^3 " means one thousandth (10^{-3}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

"National Ambient Air Quality Standard" or "NAAQS" means a standard established by USEPA that applies for outdoor air throughout the United States.

BOARD NOTE: The Board added this definition, derived from the definition in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 30. USEPA has codified the NAAQS at 40 CFR 50.

BOARD NOTE: The Board added this definition based on the definition in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), document number EPA 175-B-97-001, USEPA, Office of Communications, Education, and Public Affairs, at p. 30.

"Natural event" means an event in which human activity plays little or no direct causal role.

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"Parts per billion" or "ppb" means the ratio of the parts of a specified contaminant to a billion parts of air by weight ($1:10^9$), as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition and that for "parts per million", derived from the parentheticals in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of "parts per billion (ppb)/parts per million (ppm)" in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 34.

"Parts per million" or "ppm" means the ratio of the parts of a specified contaminant to a million parts of air by weight ($1:10^6$), as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition, derived from the parentheticals in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of "parts per billion (ppb)/parts per million (ppm)" in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 34.

"PM₁₀" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.6(c).

"PM_{2.5}" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.7(a).

"Traceable" means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard, such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).

"USEPA" means the United States Environmental Protection Agency.

BOARD NOTE: Derived from 40 CFR 50.1(c). The Board has used "USEPA" in text where USEPA has used "Administrator", where action by USEPA is clearly contemplated. Otherwise, the Board has retained the term "Agency" as defined in this Section.

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BOARD NOTE: Derived from 40 CFR 50.1 (2012), except as otherwise more specifically indicated.

- a) ~~Except as stated in this Part and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] (Act).~~
- b) ~~All terms that appear in this Part have the definitions specified by 35 Ill. Adm. Code 201 or 211.~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.102 ScopePreamble

- a) This Part sets forth the NAAQS adopted by USEPA under section 109 of the CAA (42 USC 7409) and incorporated into this Part pursuant to 415 ILCS 5/7.2 and 10(H).
- b) National primary ambient air quality standards (primary NAAQS) define levels of air quality that USEPA has judged are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards (secondary NAAQS) define levels of air quality that USEPA has judged necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. **These standards** are subject to revision, and additional primary and secondary NAAQS may be promulgated as USEPA deems necessary to protect the public health and welfare.
- c) The promulgation of primary and secondary NAAQS must not be considered in any manner to allow significant deterioration of existing air quality in any portion of this State.
- a) ~~Air quality standards are limits on atmospheric concentrations of air contaminants established for the purpose of protecting public health and welfare. The levels of air quality designated by the standards are designed to protect against injury to human, plant or animal life and they are further intended to allow maximum enjoyment of life and property consistent with the intent of the Act.~~
- b) ~~The first use of our air resources is to sustain life. Air entering the respiratory~~

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~~tract must not menace health. Therefore, the air quality standards set must, as a minimum, provide air which will not adversely affect, through acute or chronic symptoms, the health of the community. Adverse health effects include not only the possible production and aggravation of disease, but also interference with bodily functions. The standards have also taken into account soiling, corrosion, vegetation damage and other human effects.~~

- e) ~~Primary ambient air quality standards define levels of air quality which are necessary, with an adequate margin of safety, to protect the public health. Secondary ambient air quality standards define levels of air quality which are necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.~~
- d) ~~The standards are more than goals. They are legally enforceable limitations, and any person causing or contributing to a violation of the standards is subject to enforcement proceedings under the Act. The standards have also been designed for use as a basis for the development of implementation plans by State and local agencies for the abatement and control of pollutant emissions from existing sources, and for the determination of air contaminant emission limitations to insure that population and economic growth trends do not add to the region's air pollution problems.~~

BOARD NOTE: Derived from 40 CFR 50.2 (2012).

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.103 Applicability

The standards in this Part ~~apply~~are applicable throughout the State of Illinois, except as otherwise provided in this Part.

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.104 Nondegradation (Repealed)

~~Existing ambient air quality that is better than the established ambient air quality standards at the date of their adoption will be maintained in its present high quality. Such ambient air quality shall not be lowered unless and until it is proved to the Illinois Environmental Protection Agency~~

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~~(Agency) that the change is justifiable as a result of necessary economic and social development and will not interfere with or become injurious to human health or welfare.~~

(Source: Repealed at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.105 Air Quality Monitoring Data Influenced by Exceptional Events**a) Requirements**

- 1) The Agency may request USEPA to exclude from use in determinations data showing an exceedance of an NAAQS that is directly due to an exceptional event. The Agency must demonstrate to USEPA that the event caused a specific air pollution concentration at a particular air quality monitoring location.
- 2) A demonstration to justify data exclusion may include any reliable and accurate data, but must demonstrate a clear causal relationship between the measured exceedance of an NAAQS and the event in accordance with subsection (c)(3)(D).

b) Determinations by USEPA. USEPA has stated the criteria for making a determination to exclude data as follow:

- 1) Exceptional Events. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS where the Agency has demonstrated that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14.
- 2) Fireworks Displays. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS where the Agency has demonstrated that emissions from fireworks displays caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the State otherwise satisfies the requirements of 40 CFR 50.14. USEPA has stated that these data will be treated in the same manner as exceptional events under this Section provided the Agency has demonstrated that the use of fireworks is

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significantly integral to traditional national, ethnic or other cultural events, including, but not limited to, July Fourth celebrations, which satisfy the requirements of 40 CFR 50.14.

- 3) Prescribed Fires. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS where the Agency has demonstrated that emissions from prescribed fires caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14, provided that the emissions are from prescribed fires that USEPA determines meets the definition of "exceptional event" in Section 243.101, and provided that the Agency has certified to USEPA that the State has adopted and is implementing a Smoke Management Program (SMP) or the State has ensured that the burner employed basic smoke management practices. If an exceptional event occurs using the basic smoke management practices approach, the Agency must undertake a review of the State's approach to ensure public health is being protected and must include consideration of development of an SMP.

BOARD NOTE: In each of corresponding 40 CFR 50.14(b)(1), (b)(2) and (b)(3), USEPA stated "EPA shall exclude data from use in determinations of exceedances and NAAQS violations." In the first person, "shall" is used more to express present intent or to commit to future action. The Board has changed "EPA shall" to "USEPA has stated that it will." Further, the Board has relied on the defined term "exceedance of an NAAQS".

c) Schedules and Procedures

- 1) Public notification. The Agency or, where the Agency has delegated authority pursuant to Section 4(g) or (r) of the Act, the Agency's delegatee, must notify the public promptly whenever an event occurs or is reasonably anticipated to occur that may result in the exceedance of an NAAQS.
- 2) Flagging of Data.

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- A) The Agency must notify USEPA of the State's intent to exclude one or more measured exceedances of an NAAQS as being due to an exceptional event by placing a flag in the appropriate field for the data record of concern that has been submitted to the federal air quality system (AQS) database.
- B) Flags placed on data in accordance with this Section must be deemed informational only, and the data must not be excluded from determinations with respect to an exceedance of an NAAQS unless and until USEPA notifies the Agency of USEPA concurrence following the Agency's submittal of a demonstration pursuant to subsection (c)(3) of this Section by placing a concurrence flag in the appropriate field for the data record in the AQS database.
- C) Flags placed on data as being due to an exceptional event, together with an initial description of the event, must be submitted to USEPA not later than July 1 of the calendar year following the year in which the flagged measurement occurred, except as allowed under subsection (c)(2)(D) or (c)(2)(E) of this Section.
- D) This subsection (c)(2)(D) corresponds with 40 CFR 50.14(c)(2)(iv), which has expired by its own terms. This statement maintains structural consistency with the federal regulations.
- E) This subsection (c)(2)(E) corresponds with 40 CFR 50.14(c)(2)(v), which has expired by its own terms. This statement maintains structural consistency with the federal regulations.
- F) USEPA has stated that when USEPA sets a NAAQS for a new pollutant or revises the NAAQS for an existing pollutant, USEPA may revise or set a new schedule for flagging exceptional event data, providing initial data descriptions, and providing detailed data documentation in AQS for the initial designations of areas for those NAAQS. Table A for this Part provides the existing schedule for submission of flags with initial descriptions in AQS and detailed documentation. These schedules apply for those data

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that will or may influence the initial designation of areas for those NAAQS. USEPA has stated that it will revise the table upon which Table A is based as necessary to accommodate revised data submission schedules for new or revised NAAQS.

3) Submission of demonstrations.

- A) When the Agency has flagged data as being due to an exceptional event and is requesting exclusion of the affected measurement data, the Agency must, after notice and opportunity for public comment, submit a demonstration to USEPA to justify data exclusion not later than the sooner of three years following the end of the calendar quarter in which the flagged concentration was recorded or 12 months prior to the date that a regulatory decision must be made by USEPA. The Agency must submit to USEPA the public comments it received, along with its demonstration.
- B) This subsection (c)(3)(B) corresponds with 40 CFR 50.14(b)(3)(ii), which pertains only to a reporting period and opportunity to demonstrate exceptions that has passed. This statement maintains structural consistency with the federal regulations.
- C) This subsection (c)(3)(B) corresponds with 40 CFR 50.14(b)(3)(ii), which pertains only to a reporting period and opportunity to demonstrate exceptional events that has passed in a provision that has expired by its own terms. This statement maintains structural consistency with the federal regulations.
- D) The demonstration to justify data exclusion must provide the following evidence:
- i) That the event satisfies the definition of "exceptional event" set forth in Section 243.101;
 - ii) That there is a clear causal relationship between the measurement under consideration and the event that is claimed to have affected the air quality in the area;

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iii) That the event is associated with a measured concentration in excess of normal historical fluctuations, including background; and

iv) That there would have been no exceedance or violation but for the event.

E) With the submission of the demonstration, the Agency must document that the public comment process was followed.

BOARD NOTE: Derived from 40 CFR 50.14 (2012).

(Source: Added at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.106 Monitoring (Repealed)

~~Pollution levels will be determined by fixed or mobile sampling stations beyond the premises on which a source is located. Stations will be located according to the guidelines for established monitoring networks as developed by the United States Environmental Protection Agency.~~

(Source: Repealed at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.107 Reference Conditions

All measurements of air quality that are expressed as mass per unit volume (e.g., micrograms per cubic meter, other than for particulate matter (except-PM_{2.5}) standards contained in Section 243.120(b) and (c) and lead standards contained in Section 243.126(b), are corrected to a reference temperature of 25° C, and to a reference pressure of 760 millimeters of mercury (1013.2 millibars). Measurements of PM_{2.5}, for purposes of comparison to the standards contained in Section 243.120(b) and (c), and lead, measurements shall for purposes of comparison to the standards contained in Section 243.126(b), must be reported based upon the actual ambient air volume measured at the actual temperature and pressure at the monitoring site during the measurement period.

BOARD NOTE: Derived from 40 CFR 50.3 (2012).

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

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Section 243.108 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

[Government Printing Office \(GPO\), 732 Capitol Street NW, Washington DC 20401 \(telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov\). The following documents incorporated by reference are available from this source:](#)

[Appendix A-1 to 40 CFR 50 \(2012\) \(Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere \(Ultraviolet Fluorescence Method\)\), referenced in Section 243.122.](#)

[Appendix A-2 to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Sulfur Dioxide in the Atmosphere \(Pararosaniline Method\)\), referenced in Section 243.122.](#)

[Appendix B to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere \(High-Volume Method\)\), referenced in appendix G to 40 CFR 50 \(see below\).](#)

[Appendix C to 40 CFR 50 \(2012\) \(Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere \(Non-Dispersive Infrared Photometry\)\), referenced in Section 243.123.](#)

[Appendix D to 40 CFR 50 \(2012\) \(Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere\), referenced in Section 243.125.](#)

[Appendix F to 40 CFR 50 \(2012\) \(Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere \(Gas Phase Chemiluminescence\)\), referenced in Section 243.124.](#)

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[Appendix G to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air\), referenced in Section 243.126.](#)

[Appendix H to 40 CFR 50 \(2012\) \(Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone\), referenced in Section 243.125.](#)

[Appendix I to 40 CFR 50 \(2012\) \(Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone\), referenced in Section 243.125.](#)

[Appendix J to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere\), referenced in Section 243.120.](#)

[Appendix K to 40 CFR 50 \(2012\) \(Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter\), referenced in Section 243.120.](#)

[Appendix L to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere\), referenced in Section 243.120.](#)

[Appendix N to 40 CFR 50 \(2012\) \(Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter\), referenced in Section 243.120.](#)

[Appendix O to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere\), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.](#)

[Appendix P to 40 CFR 50 \(2012\) \(Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone\), referenced in Section 243.125.](#)

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[Appendix Q to 40 CFR 50 \(2012\) \(Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air\), referenced in appendix R to 40 CFR 50.](#)

[Appendix R to 40 CFR 50 \(2012\) \(Interpretation of the National Ambient Air Quality Standards for Lead\), referenced in Section 243.126.](#)

[Appendix S to 40 CFR 50 \(2012\) \(Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen \(Nitrogen Dioxide\)\), referenced in Section 243.124.](#)

[Appendix T to 40 CFR 50 \(2012\) \(Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur \(Sulfur Dioxide\)\), referenced in Section 243.122.](#)

[Clean Air Act, 42 USC 7401 et seq. \(2011\) \(for definitions of terms only\), referenced in Section 243.102.](#)

[BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.](#)

[USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division \(MD-D205-03\), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:](#)

["List of Designated Reference and Equivalent Methods" \(December 17, 2012\) \(referred to as "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.](#)

[This reference includes the no Federal Register notices subsequent to December 17, 2012 that updated List of Designated Methods.](#)

[BOARD NOTE: This document is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.](#)

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- a) ~~Pararosaniline method, 40 CFR 50, appendix A (1982).~~
- b) ~~Non-dispersive infrared spectrometry technique, 40 CFR 50, appendix C (1982), 36 Fed. Reg. 22391, November 25, 1971.~~
- e) ~~Colorimetric method, 36 Fed. Reg. 22396, November 25, 1971.~~
- d) ~~Ozone-ethylene reaction method, 40 CFR 50, appendix D (1982), 36 Fed. Reg. 22392, November 25, 1971.~~
- e) ~~Lead, 40 CFR 50, appendix G (2008).~~
- f) ~~Reference method for the determination of particulate matter as PM₁₀ in the atmosphere, 40 CFR 50, appendix J (1990).~~
- g) ~~Interpretation of the National Ambient Air Quality Standards (NAAQS) for particulate matter, 40 CFR 50, appendix K, 73 Fed. Reg. 61144 (October 17, 2006).~~
- h) ~~Reference method for the determination of particulate matter as PM_{2.5} in the atmosphere, 40 CFR 50, appendix L, 73 Fed. Reg. 61144 (October 17, 2006).~~
- i) ~~Interpretation of the NAAQS for PM_{2.5}, 40 CFR 50, appendix N, 73 Fed. Reg. 1497 (January 9, 2008).~~
- j) ~~Interpretation of the NAAQS for O₃, 40 CFR 50, appendix P, 73 Fed. Reg. 16436 (March 27, 2008).~~
- k) ~~The NAAQS for Lead; Final Rule, 40 CFR 50, 51, 53, and 58, 73 Fed. Reg. 66964 (November 12, 2008).~~
- l) ~~Interpretation of the NAAQS for Lead, 40 CFR 50, appendix R, 73 Fed. Reg. 66964 (November 12, 2008).~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

SUBPART B: STANDARDS AND MEASUREMENT METHODS

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Section 243.120 PM₁₀ and PM_{2.5}

- a) 1987 Primary and Secondary 24-Hour NAAQS for PM₁₀.
- 1) The level of the 1987 primary and secondary 24-hour NAAQS for PM₁₀ is 150 µg/m³, 24-hour average concentration. The 1987 primary and secondary NAAQS for PM₁₀ is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with appendix K to 40 CFR 50, incorporated by reference in Section 243.108, is equal to or less than one.
 - 2) This subsection (a)(2) corresponds with 40 CFR 51.6(b), a provision marked "reserved" by USEPA. This statement maintains structural consistency with the corresponding federal regulation.
 - 3) For the purpose of determining attainment of the 1987 primary and secondary 24-hour NAAQS for PM₁₀, particulate matter must be measured in the ambient air as PM₁₀ by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix J to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.6 (2012). USEPA adopted 1997 primary NAAQS for PM₁₀ at 62 Fed. Reg. 38652 (July 18, 1997). As a result of a judicial vacatur, USEPA later removed the transitional provision relative to the 1987 NAAQS at 65 Fed. Reg. 80776 (Dec. 22, 2000) and the 1997 NAAQS at 69 Fed. Reg. 45595 (July 30, 2004). Thus, the 1987 primary and secondary NAAQS for PM₁₀ are included in this subsection (a).

- b) 1997 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.

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- 1) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is 65 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
- 3) The 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 65 µg/m³.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.7 (2012). The 2006 primary and secondary annual average and 24-hour NAAQS for PM_{2.5} differs from the 1997 standards in that the 24-hour average concentration required by the 2006 standard is substantially lower (more stringent) than that for the 1997 standard. The Board has retained the 1997 standard in this subsection (b) because USEPA has retained the 1997 standard in 40 CFR 50.6.

- c) 2006 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.
 - 1) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is 35 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:

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- A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
- B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
- 3) The 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.13 (2012).

- a) ~~Standards. The primary and secondary ambient air quality standards for PM₁₀ are a maximum 24-hour average concentration of 150 µg/m³. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one, as measured and determined in accordance with subsection (b).~~
- b) ~~Measurement Method. For determining conformance with the PM₁₀ ambient air quality standards, PM₁₀ shall be measured by the method described in 40 CFR 50, appendix J or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one, as determined in accordance with 40 CFR 50, appendix K (incorporated by reference in Section 243.108).~~
- e) ~~Standards. The primary and secondary ambient air quality standards for PM_{2.5} are:~~

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- 1) ~~An annual arithmetic mean concentration of 15.0 $\mu\text{g}/\text{m}^3$ and as measured and determined in conformance with subsection (d).~~
- 2) ~~A maximum 24-hour concentration of 35 $\mu\text{g}/\text{m}^3$, at the 98th percentile value, and as measured and determined in conformance with subsection (d).~~
- d) ~~Measurement Method for $\text{PM}_{2.5}$. For determining conformance with the $\text{PM}_{2.5}$ ambient air quality standards, $\text{PM}_{2.5}$ shall be measured by the method described in 40 CFR 50, appendix L or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). Compliance with the standards is determined using the methods and procedures described in 40 CFR 50, appendix N (incorporated by reference in Section 243.108).~~
 - 1) ~~The annual primary and secondary $\text{PM}_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, appendix N, is less than or equal to 15.0 $\mu\text{g}/\text{m}^3$.~~
 - 2) ~~The 24-hour primary and secondary $\text{PM}_{2.5}$ standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, appendix N, is less than or equal to 35 $\mu\text{g}/\text{m}^3$.~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.122 Sulfur Oxides (Sulfur Dioxide)

- a) 1971 Primary Annual Average and 24-Hour NAAQS for Sulfur Oxides (as Sulfur Dioxide (SO_2)).
 - 1) The level of the 1971 primary annual average NAAQS for sulfur oxides is 0.030 ppm, not to be exceeded in a calendar year. The annual arithmetic mean must be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up).
 - 2) The level of the 1971 primary 24-hour NAAQS for sulfur oxides is 0.14 ppm, not to be exceeded more than once per calendar year. The 24-hour averages must be determined from successive non-overlapping 24-hour

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blocks starting at midnight each calendar day and must be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm must be rounded up).

- 3) Sulfur oxides must be measured in the ambient air as SO₂ by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 4) To demonstrate attainment, the annual arithmetic mean and the second-highest 24-hour averages must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 24-hour block average must be considered valid if at least 75 percent of the hourly averages for the 24-hour period are available. In the event that only 18-, 19-, 20-, 21-, 22-, or 23-hour averages are available, the 24-hour block average must be computed as the sum of the available hourly averages using the number of hours (i.e., 18, 19, etc.) as the divisor. If less than 18-hour averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection (b) of this Section, this must be considered a valid 24-hour average. In this case, the 24-hour block average must be computed as the sum of the available hourly averages divided by 24.
- 5) The 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) remains applicable to all areas notwithstanding the promulgation of the 2010 primary one-hour NAAQS for sulfur oxides in subsection (c) of this Section. The Board will delete the 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) after fulfillment of the conditions recited by USEPA in corresponding 40 CFR 50.4(e).

BOARD NOTE: Corresponding 40 CFR 50.4(e) recites that the 1971 primary NAAQS for sulfur oxides remains effective in two types of areas for which USEPA has not yet approved an implementation plan for attainment with the 2010 primary one-hour NAAQS for sulfur oxides. The first type of area is one that USEPA had designated as non-attainment for that standard as of the effective date of the 2010 primary one-hour NAAQS for the 1971 primary NAAQS for sulfur oxides as of the effective

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date of the 2010 NAAQS. That date was August 23, 2010. See 75 Fed. Reg. 35520 (June 22, 2010). As of that date, USEPA had not designated any area in Illinois as non-attainment. See 40 CFR 81.314 (2010). The Board is unaware of any USEPA SIP call for any area of Illinois relative to the 1971 primary NAAQS for sulfur oxides. As of December 31, 2012, USEPA had not yet designated the attainment status of areas in Illinois. See 40 CFR 81.314 (2012). The Agency recommended that USEPA designate limited areas of Illinois as non-attainment with the 2010 primary one-hour NAAQS. See letter of June 2, 2011 from Laurel Kroack, Chief, Bureau of Air, Agency, to Cheryl A. Newton, Director, Office of the Air and Radiation Division, USEPA Region 5 (available at http://www.epa.gov/so2designations/reclatters/R5_IL_rec_wtechanalysis.pdf). When the conditions of this subsection (a)(5) have been fulfilled, or USEPA has removed 40 CFR 50.4, the Board will remove the standard of this subsection (a) as obsolete.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.4 (2012).

- b) 1971 Secondary Three-Hour NAAQS for Sulfur Oxides (as SO₂).
- 1) The level of the 1971 secondary three-hour NAAQS for sulfur oxides is 0.5 ppm, not to be exceeded more than once per calendar year. The three-hour averages must be determined from successive non-overlapping three-hour blocks starting at midnight each calendar day and must be rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm must be rounded up).
 - 2) Sulfur oxides must be measured in the ambient air as SO₂ by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.
 - 3) To demonstrate attainment, the second-highest three-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A three-hour block average must be considered valid only if all three hourly averages for the three-hour period are available. If only one or two hourly averages are available, but the three-hour average would exceed the level of the standard when zeros are substituted for the

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missing values, subject to the rounding rule of subsection (b)(1) of this Section, this must be considered a valid three-hour average. In all cases, the three-hour block average must be computed as the sum of the hourly averages divided by three.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.5 (2012).

c) 2010 Primary One-Hour NAAQS for Sulfur Oxides (as SO₂)

- 1) The level of the 2010 primary one-hour NAAQS for sulfur oxides is 75 ppb, measured in the ambient air as SO₂.
- 2) The 2010 one-hour primary NAAQS for sulfur oxides is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR 50, incorporated by reference in Section 243.108.
- 3) The level of the 2010 one-hour primary NAAQS for sulfur oxides must be measured by an FRM based on appendix A-1 or A-2 of 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.17 (2012). The 1971 primary NAAQS for SO₂ remains in effect until the federal conditions of 40 CFR 50.4(e) have been fulfilled, as outlined in subsection (a)(5) and the appended Board note.

a) ~~Primary Standards. The primary ambient air quality standards for sulfur oxides measured as sulfur dioxide are:~~

- 1) ~~An annual arithmetic mean concentration of 80 µg/m³ (0.03 ppm); and~~
- 2) ~~A maximum 24-hour concentration, not to be exceeded more than once per year, of 365 µg/m³ (0.14 ppm).~~

b) ~~Secondary Standard. The secondary ambient air quality standard for sulfur oxides~~

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~~measured as sulfur dioxide is a maximum 3-hour concentration not to be exceeded more than once per year of 1,300 $\mu\text{g}/\text{m}^3$ (0.5 ppm).~~

- e) ~~Measurement Method. For determining conformance with sulfur oxide air quality standards, sulfur oxides shall be measured as sulfur dioxide by the pararosaniline method described in 40 CFR 50, appendix A (incorporated by reference in Section 243.108), or by an equivalent method of proof approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.123 Carbon Monoxide

- a) The 1971 eight-hour and one-hour primary NAAQS for carbon monoxide are as follows:
- 1) An eight-hour average concentration of 9 ppm (10 mg/m^3), not to be exceeded more than once per year; and
 - 2) A one-hour average concentration of 35 ppm (40 mg/m^3), not to be exceeded more than once per year.
- b) The levels of carbon monoxide in the ambient air must be measured by a method that fulfills either of the following requirements:
- 1) An FRM based on appendix C of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - 2) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- c) An eight-hour average concentration must be considered valid if at least 75 percent of the hourly average for the eight-hour period is available. In the event that only six-hour (or seven-hour) averages are available, the eight-hour average must be computed on the basis of the hours available using six (or seven) as the divisor.

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- d) When summarizing data for comparison with the standards, averages must be stated to one decimal place. Comparison of the data with the levels of the standards in ppm must be made in terms of integers with fractional parts of 0.5 or greater rounded up.

BOARD NOTE: This Section is derived from 40 CFR 50.8 (2012).

- a) ~~Standards. The ambient air quality standards for carbon monoxide are:~~
- 1) ~~A maximum 8-hour concentration not to be exceeded more than once per year of 10 milligrams per cubic meter (9 ppm); and,~~
 - 2) ~~A maximum 1-hour concentration not to be exceeded more than once per year of 40 milligrams per cubic meter (35 ppm).~~
- b) ~~Measurement Method. For determining conformance with the carbon monoxide air quality standard, carbon monoxide shall be measured by the nondispersive infrared spectrometry technique as described in 40 CFR 50, App. C (1982), 36 Fed. Reg. 22,391, November 25, 1971, or by an equivalent method approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.124 Nitrogen Oxides (Nitrogen Dioxide as Indicator)

- a) The level of the 1971 primary annual average NAAQS for nitrogen oxides is 53 ppb, annual average concentration, measured in the ambient air as nitrogen dioxide (NO₂).
- b) The level of the 2010 primary one-hour NAAQS for nitrogen oxides is 100 ppb, one-hour average concentration, measured in the ambient air as NO₂.
- c) The level of the 1971 secondary annual average NAAQS for nitrogen oxides is 0.053 ppm (100 µg/m³), annual arithmetic mean concentration, measured in the ambient air as NO₂.
- d) The levels of the standards in subsections (a) through (c) of this Section must be measured by:

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- 1) An FRM based on appendix F to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - 2) By an federal FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- e) The 1971 primary annual average NAAQS for nitrogen oxides in subsection (a) of this Section is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with appendix S of 40 CFR 50, incorporated by reference in Section 243.108, for the annual standard.
- f) The 2010 one-hour primary NAAQS for nitrogen oxides in subsection (b) of this Section is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with appendix S of 40 CFR 50, incorporated by reference in Section 243.108, for the 1-hour standard.
- g) The 1971 secondary annual average NAAQS for nitrogen oxides in subsection (c) of this Section is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.
- a) ~~Standard. The ambient air quality standard for nitrogen dioxide is an annual arithmetic mean concentration of 100 micrograms per cubic meter (0.05 ppm).~~
- b) ~~Measurement Method. For determining conformance with the nitrogen dioxide air quality standard, nitrogen dioxide shall be measured by the colorimetric method as described in 36 Fed. Reg. 22,396, November 25, 1971, or by an equivalent method approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

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Section 243.125 ~~8-Hour~~ Ozone

- a) 1997 Primary and Secondary Eight-Hour NAAQS for Ozone.
- 1) The 1997 hour primary and secondary eight-hour NAAQS for ozone, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 0.08 ppm, daily maximum eight-hour average.
 - 2) The 1997 primary and secondary eight-hour NAAQS for ozone is met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with appendix I to 40 CFR 50, incorporated by reference in Section 243.108.
 - 3) USEPA has stated in corresponding 40 CFR 50.10(c) that the 1997 primary and secondary eight-hour NAAQS for ozone set forth in subsection (b)(1) of this Section will no longer apply to an area for transportation conformity purposes one year after the effective date of USEPA designation of that area pursuant to 42 USC 7407 for the 2008 primary and secondary eight-hour NAAQS set forth for ozone in subsection (c)(1) of this Section. The 1997 primary and secondary eight-hour NAAQS for ozone set forth in this subsection (b) will remain applicable to all areas for all other purposes notwithstanding the 2008 primary and secondary eight-hour NAAQS for ozone set forth in subsection (c) of this Section or the USEPA designation of areas for that 2008 primary and secondary eight-hour NAAQS for ozone.

BOARD NOTE: USEPA has codified area designations and classifications with respect to the 2008 primary and secondary NAAQS for ozone in 40 CFR 81.314. When USEPA has taken action and the conditions of subsection (b)(3) have been fulfilled, or USEPA has removed 40 CFR 50.10, the Board will remove obsolete 1997 primary and secondary one-hour or eight-hour NAAQS for ozone from this subsection (a).

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.10 (2012).

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b) 2008 Primary and Secondary Eight-Hour NAAQS for Ozone.

- 1) The 2008 primary and secondary eight-hour NAAQS for ozone is 0.075 ppm, daily maximum eight-hour average, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, or an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2008 primary and secondary eight-hour NAAQS for ozone ambient air quality standards are met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.075 ppm, as determined in accordance with appendix P to 40 CFR 50, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.15 (2012).

- ~~a) Standard. The primary and secondary ambient air quality standards for ozone are 0.075 ppm (parts per million) daily maximum 8-hour average concentration, measured and determined in accordance with subsection (b).~~
- ~~b) Measurement Method. Ozone shall be measured by a reference method based on 40 CFR 50, appendix D and designated in accordance with 40 CFR 53 (incorporated by reference in Section 243.108) or an equivalent method designated in accordance with 40 CFR 53. The primary and secondary ambient air quality standards are met when the average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined using, 40 CFR 50, appendix P (incorporated by reference in Section 243.108).~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

Section 243.126 Lead

- a) 1978 Primary and Secondary Quarterly Average NAAQS for Lead

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- 1) The 1978 primary and secondary quarterly average NAAQS for lead and its compounds, measured as elemental lead by an FRM based on appendix G to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 1.5 $\mu\text{g}/\text{m}^3$, maximum arithmetic mean averaged over a calendar quarter.
- 2) The 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) will remain applicable to all areas notwithstanding the 2008 primary and secondary quarterly average NAAQS for lead in subsection (b) of this Section. The 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) will no longer apply to an area one year after the effective date of the designation of that area by USEPA pursuant to 42 USC 7407 for the 2008 primary and secondary three-month average NAAQS for lead set forth in subsection (b) of this Section; except that, for areas designated nonattainment for the 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) as of January 12, 2009, the 1978 primary and secondary NAAQS for lead set forth in this subsection (a) will apply until USEPA has approved an implementation plan for that area pursuant to 42 USC 7514 providing for attainment or maintenance of the 2008 primary and secondary three-month average NAAQS for lead set forth in subsection (b) of this Section.

BOARD NOTE: The Board substituted "January 12, 2009" for the open-ended language in corresponding 40 CFR 50.12(b) relative to the effective date of 40 CFR 50.16. January 12, 2009 is the effective date recited at 73 Fed. Reg. 66964 (Nov. 12, 2008). USEPA designated Granite City as nonattainment with the 2008 primary and secondary three-month average NAAQS for lead in 2010 and an area of Chicago in 2011. USEPA designated all other areas of Illinois for the 2008 primary and secondary three-month average NAAQS for lead in 2012. See 40 CFR 81.314 (area designations in Illinois); 76 Fed. Reg. 72097, 108 (Nov. 22, 2011) (effective December 31, 2011); 75 Fed. Reg. 71033, 42 (Nov. 22, 2010)

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(effective December 31, 2010). Thus, this subsection (a) has been obsolete since December 31, 2012.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.12 (2012).

- b) 2008 Primary and Secondary Three-Month Average NAAQS for Lead.
- 1) The 2008 primary and secondary three-month average NAAQS for lead and its compounds is 0.15 $\mu\text{g}/\text{m}^3$, arithmetic mean concentration over a three-month period, measured in the ambient air as lead by either of the following:
- A) An FRM based on appendix G of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108 or;
- B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2008 primary and secondary three-month average NAAQS for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with appendix R of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.16 (2012).

- a) Standard. The primary and secondary ambient air quality standards for lead and its compounds measured as elemental lead are 0.15 $\mu\text{g}/\text{m}^3$, maximum rolling three month average measured and determined over a three year period.
- b) Measurement Method. For determining conformance with the ambient air quality standards for lead and its compounds, lead and its compounds shall be measured as elemental lead by reference method based on 40 CFR 50, appendix G and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53 (incorporated by reference in Section 243.108). Compliance with the primary and secondary ambient air quality standards shall be

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~~determined in accordance with 40 CFR 50, appendix R (incorporated by reference in Section 243.108).~~

(Source: Amended at 37 Ill. Reg. 12882, effective July 29, 2013)

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Section 243.APPENDIX A Rule into Section Table (Repealed)

RULE	SECTION
301	243.102
302	243.103
303	243.104
304	Appendix C
305	243.106
306	243.107
307	243.121
308	243.122
309	Repealed
310	243.123
311	243.124
312	243.125
313	243.126

(Source: Repealed at 37 Ill. Reg. 12882, effective July 29, 2013)

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Section 243.APPENDIX B Section into Rule Table (Repealed)

SECTION	RULE
243.101	—
243.102	301
243.103	302
243.104	303
243.106	305
243.107	306
243.121	307
243.122	308
243.123	310
243.124	311
243.125	312
243.126	313

(Source: Repealed at 37 Ill. Reg. 12882, effective July 29, 2013)

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| **Section 243.APPENDIX C Past Compliance Dates (Repealed)**

| ~~Except as otherwise noted, compliance with this Part was required June 26, 1973.~~

(Source: Repealed at 37 Ill. Reg. 12882, effective July 29, 2013)

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Section 243.TABLE A Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS

<u>NAAQS (Level) Regulatory Citations</u>	<u>Air quality data collected for calendar year</u>	<u>Event flagging & initial description deadline</u>	<u>Detailed documentation submission deadline</u>
<u>2006 24-hour PM_{2.5} (35 µg/m³) Section 243.120(c)(1) 40 CFR 50.13(a) 71 Fed. Reg. 61144 (Oct. 17, 2006)</u>	<u>2004-2006</u>	<u>October 1, 2007</u>	<u>April 15, 2008</u>
<u>2008 eight-hour ozone (0.075 ppm) Section 243.125(c)(1) 40 CFR 50.15(a) 73 Fed. Reg. 16436 (Mar. 27, 2008)</u>	<u>2005-2007 2008 2009</u>	<u>June 18, 2009 June 18, 2009 60 days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first</u>	<u>June 18, 2009 June 18, 2009 60 days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first</u>
<u>2010 one-hour nitrogen oxides (as NO₂) (100 ppb) Section 243.124(b) 40 CFR 50.11(b) 75 Fed. Reg. 6474 (Feb. 9, 2010)</u>	<u>2008 2009 2010</u>	<u>July 1, 2010 July 1, 2010 April 1, 2011</u>	<u>January 22, 2011 January 22, 2011 July 1, 2010</u>

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<u>2010 one-hour sulfur oxides (as SO₂) (75 ppb)</u>	<u>2008</u>	<u>October 1, 2010</u>	<u>June 1, 2011</u>
<u>Section 243.122(c)(1) 40 CFR 17(a)</u>	<u>2009</u>	<u>October 1, 2010</u>	<u>June 1, 2011</u>
<u>75 Fed. Reg. 35520 (June 22, 2010)</u>	<u>2010</u>	<u>June 1, 2011</u>	<u>June 1, 2011</u>
	<u>2011</u>	<u>60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first</u>	<u>60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first</u>

BOARD NOTE: Derived from table 1 to 40 CFR 50.14(c) (2012). USEPA noted that the information in this table of revised deadlines only applies to data that USEPA will use to establish the final initial designations for new or revised NAAQS. USEPA stated that the general schedule in this table applies for all other purposes, most notably, for data that USEPA will use for redesignations to attainment. Corresponding table 1 to 40 CFR 50.14(c)(2) cites the 2010 one-hour NAAQS for nitrogen oxides as "80-100 PPB, final level TBD" and the 2010 one-hour NAAQS for sulfur oxides as "80-100 PPB, final level TBD". The adopted 2010 one-hour NAAQS for NO_x at 40 CFR 50.11(f) is 100 ppb and the adopted 2010 one-hour NAAQS for SO₂ is 75 ppb. The Board has used the actual NAAQS for these contaminants in this Table A. Further, corresponding table 1 to 40 CFR 50.14(c) includes endnotes "a" and "b" indicate whether dates for NO₂ and SO₂ are changed or unchanged, which the Board has omitted, since endnotes will serve no purpose in the Illinois regulations.

(Source: Added at 37 Ill. Reg. 12882, effective July 29, 2013)

DEPARTMENT OF NATURAL RESOURCES

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
STATEMENT OF RECOMMENDATION TO EMERGENCY RULEMAKING

- 1) Heading of the Part: Illinois Youth Recreation Corps Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3075
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
3075.10	Amendment
3075.20	Amendment
3075.30	Amendment
3075.40	Amendment
3075.50	Amendment
3075.60	Amendment
3075.70	Amendment
- 4) Date Emergency Rulemaking Published in the Illinois Register: June 28, 2013; 37 Ill. Reg. 8953
- 5) Date the Joint Committee on Administrative Rules Statement of Recommendation to Emergency Rulemaking Published in the Illinois Register: July 26, 2013; 37 Ill. Reg. 12111
- 6) Summary of Action Taken by the Agency: At its meeting on July 9, 2013, the Joint Committee on Administrative Rules considered the above-cited emergency rulemaking and recommended that, when the Department proposes a permanent version of the rulemaking, it include the wage rate to be paid to youth and supervisors.

In response to this Recommendation, the Department agrees and will define "reasonable wages" as "an amount no lower than the minimum wage of the state of Illinois at the time of the issuance of the grant award".

DEPARTMENT OF NATURAL RESOURCES

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
STATEMENT OF RECOMMENDATION TO EMERGENCY RULEMAKING

- 1) Heading of the Part: Illinois Veteran Recreation Corps Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3080
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
3080.10	New
3080.20	New
3080.30	New
3080.40	New
3080.50	New
3080.60	New
3080.70	New
3080.80	New
- 4) Date Emergency Rulemaking Published in the Illinois Register: June 28, 2013; 37 Ill. Reg. 8953
- 5) Date the Joint Committee on Administrative Rules Statement of Recommendation to Emergency Rulemaking Published in the Illinois Register: July 26, 2013; 37 Ill. Reg. 12112
- 6) Summary of Action Taken by the Agency: At its meeting on July 9, 2013, the Joint Committee on Administrative Rules considered the above-cited emergency rulemaking and recommended that, when the Department proposes a permanent version of the rulemaking, it include the wage rate to be paid to veterans and supervisors.

In response to this Recommendation, the Department agrees and will define "reasonable wages" as "an amount no lower than the minimum wage of the state of Illinois at the time of the issuance of the grant award".

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

SCHEDULED MEETING:

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
AUGUST 13, 2013
11:00 A.M.

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

RULEMAKINGS CURRENTLY BEFORE JCAR

NOTICE: *It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@ilga.gov
Phone: 217/785-2254*

PROPOSED RULEMAKINGS

Agriculture

1. Motor Fuel and Petroleum Standards Act (8 Ill. Adm. Code 850)
 - First Notice Published: 37 Ill. Reg. 6413 – 5/17/13
 - Expiration of Second Notice: 8/29/13

Central Management Services

2. Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities (44 Ill. Adm. Code 10)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

- First Notice Published: 37 Ill. Reg. 3460 – 3/29/13
- Expiration of Second Notice: 9/4/13

Children and Family Services

3. Reports of Child Abuse and Neglect (89 Ill. Adm. Code 300)
 - First Notice Published: 37 Ill. Reg. 5207 – 4/26/13
 - Expiration of Second Notice: 9/7/13

Emergency Management Agency

4. Accrediting Persons in the Practice of Medical Radiation Technology (32 Ill. Adm. Code 401)
 - First Notice Published: 37 Ill. Reg. 2783 – 3/15/13
 - Expiration of Second Notice: 9/3/13

Health Information Exchange Authority

5. Protection of Privacy of Public Aid Applicants and Recipients (77 Ill. Adm. Code 4000)
 - First Notice Published: 37 Ill. Reg. 7107 – 5/24/13
 - Expiration of Second Notice: 9/5/13

Human Services

6. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
 - First Notice Published: 37 Ill. Reg. 5268 – 4/26/13
 - Expiration of Second Notice: 8/22/13

Labor Relations Board

7. General Procedures (80 Ill. Adm. Code 1200)
 - First Notice Published: 37 Ill. Reg. 5762 – 5/3/13
 - Expiration of Second Notice: 8/30/13
8. Gubernatorial Designation of Positions Excluded from Collective Bargaining (80 Ill. Adm. Code 1300)
 - First Notice Published: 37 Ill. Reg. 7208 – 5/31/13
 - Expiration of Second Notice: 8/30/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

Insurance

9. Construction and Filing of Life Insurance and Annuity Forms (50 Ill. Adm. Code 1405)
-First Notice Published: 36 Ill. Reg. 13797 – 9/7/12
-Expiration of Second Notice: 8/24/13

Natural Resources

10. White-Tailed Deer Hunting By Use of Firearms (17 Ill. Adm. Code 650)
-First Notice Published: 37 Ill. Reg. 6532 – 5/17/13
-Expiration of Second Notice: 8/30/13
11. White-Tailed Deer Hunting By Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)
-First Notice Published: 37 Ill. Reg. 6556 – 5/17/13
-Expiration of Second Notice: 8/30/13
12. White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)
-First Notice Published: 37 Ill. Reg. 6568 – 5/17/13
-Expiration of Second Notice: 8/30/13
13. Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)
-First Notice Published: 37 Ill. Reg. 6599 – 5/17/13
-Expiration of Second Notice: 8/30/13
14. Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)
-First Notice Published: 37 Ill. Reg. 6606 – 5/17/13
-Expiration of Second Notice: 8/30/13
15. Injurious Species (17 Ill. Adm. Code 805)
-First Notice Published: 37 Ill. Reg. 7706 – 6/7/13
-Expiration of Second Notice: 9/8/13
16. The Illinois Explosives Act (62 Ill. Adm. Code 200)
-First Notice Published: 37 Ill. Reg. 7230 – 5/31/13
-Expiration of Second Notice: 9/8/13

Public Health

17. Illinois Vital Records Code (77 Ill. Adm. Code 500)
-First Notice Published: 37 Ill. Reg. 5298 – 4/26/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

-Expiration of Second Notice: 8/16/13

18. Private Sewage Disposal Code (77 Ill. Adm. Code 905)
-First Notice Published: 37 Ill. Reg. 15940 – 11/9/12
-Expiration of Second Notice: 9/4/13

Secretary of State

19. Issuance of Licenses (92 Ill. Adm. Code 1030)
-First Notice Published: 37 Ill. Reg. 6630 – 5/17/13
-Expiration of Second Notice: 8/15/13

State Universities Retirement System

20. Universities Retirement (80 Ill. Adm. Code 1600)
-First Notice Published: 37 Ill. Reg. 6170 – 5/10/13
-Expiration of Second Notice: 9/6/13

Transportation

21. Aviation Safety (92 Ill. Adm. Code 14)
-First Notice Published: 37 Ill. Reg. 7724 – 6/7/13
-Expiration of Second Notice: 9/6/13

EMERGENCY RULEMAKINGS

Aging

22. Community Care Program (89 Ill. Adm. Code 240)
-Notice Published: 37 Ill. Reg. 11381 – 7/19/13

Central Management Services

23. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 37 Ill. Reg. 11395 – 7/19/13
24. Financial Incentive for Non-Medicare Annuitants Who Opt Out of the State Employees Group Health Plan (80 Ill. Adm. Code 2106)
-Notice Published: 37 Ill. Reg. 10715 – 7/12/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

25. State Employees Group Insurance Program Retiree Premium Contributions (80 Ill. Adm. Code 2200)
-Notice Published: 37 Ill. Reg. 10725 – 7/12/13

PEREMPTORY RULEMAKINGS

Central Management Services

26. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 37 Ill. Reg. 9563 – 7/5/13
27. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 37 Ill. Reg. 11524 – 7/19/13

ADOPTED RULEMAKINGS

Capital Development Board

28. Access to Information (Repealer) (2 Ill. Adm. Code 1651)
-Notice Published: 37 Ill. Reg. 9909 – 7/12/13
29. Access to Records of the Capital Development Board (2 Ill. Adm. Code 1651)
-Notice Published: 37 Ill. Reg. 9911 – 7/12/13

AGENCY RESPONSES

Children and Family Services

30. Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services (89 Ill. Adm. Code 431; 36 Ill. Reg. 17289)

Insurance

31. Health Maintenance Organization (50 Ill. Adm. Code 5421; 36 Ill. Reg. 15940)

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 22, 2013 through July 29, 2013. The rulemakings are scheduled for review at the Committee's August 13, 2013 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>
9/5/13	<u>Health Information Exchange Authority</u> , Protection of Privacy of Public Aid Applicants and Recipients (77 Ill. Adm. Code 4000)	5/24/13 37 Ill. Reg. 7107	8/13/13
9/6/13	<u>Department of Transportation</u> , Aviation Safety (92 Ill. Adm. Code 14)	6/7/13 37 Ill. Reg. 7724	8/13/13
9/6/13	<u>State Universities Retirement System</u> , Universities Retirement (80 Ill. Adm. Code 1600)	5/10/13 37 Ill. Reg. 6170	8/13/13
9/7/13	<u>Department of Children and Family Services</u> , Report of Child Abuse and Neglect (89 Ill. Adm. Code 300)	4/26/13 37 Ill. Reg. 5207	8/13/13
9/8/13	<u>Department of Natural Resources</u> , The Illinois Explosives Act (62 Ill. Adm. Code 200)	5/31/13 37 Ill. Reg. 7230	8/13/13
9/8/13	<u>Department of Natural Resources</u> , Injurious Species (17 Ill. Adm. Code 805)	6/7/13 37 Ill. Reg. 7706	8/13/13

PROCLAMATIONS

2013-248**Illinois Flag Display Act (Arizona Firefighters)**

WHEREAS, we hold the highest esteem and reverence for the men and women who answer the call to serve their friends, family and communities; and,

WHEREAS, first responders save countless lives every year with their heroic efforts; and,

WHEREAS, firefighters not only demonstrate the desire to serve, but have the courage to act calmly and professionally in otherwise terrifying situations; and,

WHEREAS, on the evening of June 30, 2013, the following 19 firefighters were suddenly taken from us while battling a wildfire in Central Arizona: Eric Marsh, Andrew Ashcraft, Robert Caldwell, Travis Carter, Dustin Deford, Christopher MacKenzie, Grant McKee, Sean Misner, Scott Norris, Wade Parker, John Percin, Anthony Rose, Jesse Steed, Joe Thurston, Travis Turbyfill, William Warneke, Clayton Whitted, Kevin Woyjeck, and Garret Zuppiger; and,

WHEREAS, one of these firefighters, Anthony Rose, had roots in Lake County, Illinois, where he attended Zion-Benton Township High School and was a valuable member of the community; and,

WHEREAS, we will always remember that throughout their accomplished careers as firefighters, these individuals courageously volunteered to walk into fires as everyone else ran out; and,

WHEREAS, although they are no longer with us, we will not forget the countless lives that were impacted by their public service; and,

WHEREAS, these individuals were not simply public servants, but dedicated first responders who were known by many for their deep commitment to helping people and saving lives; and,

WHEREAS, we remember these individuals' dedication to their communities and to protecting their fellow human beings; and,

WHEREAS, each of the brave firefighters who were tragically taken from us leave behind many loving friends and family members; 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 July 3, 2013 until sunset on July 5, 2013 in honor and remembrance of these brave firefighters whose selfless service and sacrifice is an inspiration.

PROCLAMATIONS

Issued by the Governor July 2, 2013
Filed by the Secretary of State July 23, 2013

2013-249
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 and preventative 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 health homes for more than 22 million individuals at more than 9,000 locations across the country; and,

WHEREAS, health centers have proven to be an effective model for improving health care outcomes, reducing health care costs, and overcoming barriers to access faced by the medically underserved; and,

WHEREAS, health centers are committed to meeting the needs of the communities they serve and growing their reach to serve every individual who currently lacks access to a health care home; and,

WHEREAS, community owned and operated health centers serve as critical economic engines helping to power local economies. In 2009 alone, health centers generated \$20 billion in combined economic impact and were responsible for nearly 200,000 jobs in areas hit hardest by the recession; and,

WHEREAS, health centers offer patient-focused, coordinated health care – preventative 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, along with social workers, case managers, and community health workers, as part of a multi-disciplinary clinical workforce designed to treat the whole patient, coordinate care and manage chronic disease, while simultaneously reducing unnecessary, avoidable, and wasteful use of health resources. This unique model allows health centers to save the entire health care system approximately \$24 billion annually by keeping patients out of costlier settings, such as emergency rooms; and,

WHEREAS, National Health Center Week offers the opportunity to recognize America's health centers, their staff, board members, and all of those responsible for the continued success and growth of the program since its creation almost 50 years ago. During National Health Center

PROCLAMATIONS

Week, we recognize the multitude of ways in which America's Health Centers are transforming care in local communities by delivering comprehensive, high quality, cost effective, and accessible health care; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 11-17, 2013, 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 3, 2013

Filed by the Secretary of State July 23, 2013

2013-250**Chiropractic Health Care Month**

WHEREAS, every year, more than 30 million Americans throughout the country, including 2 million in Illinois, visit chiropractors who locate and help correct joint and spinal problems; and,

WHEREAS, chiropractic physicians have long stressed that exercise, good posture, and balanced nutrition are essential to proper growth, development, and health maintenance; and,

WHEREAS, Illinois chiropractic physicians are dedicated to protecting and promoting patient rights, the practice of chiropractic medicine and fostering the growth of chiropractic through ongoing training and a commitment to safe and ethical practice; and,

WHEREAS, chiropractic is a safe, conservative approach to pain relief and wellness, and is the most popular form of natural healthcare in the world; and,

WHEREAS, the science of chiropractic and the physicians who practice it have contributed greatly to the health and wellbeing of the people of Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **CHIROPRACTIC HEALTH CARE MONTH** in Illinois, to raise awareness about chiropractic care.

Issued by the Governor July 5, 2013

Filed by the Secretary of State July 23, 2013

2013-251**Quinn Chapel Day**

PROCLAMATIONS

WHEREAS, Quinn Chapel African Methodist Episcopal Church houses Chicago's oldest African-American congregation, which traces its origins back to 1844, when seven individuals formed a nondenominational prayer group that met in the house of one of its members; and,

WHEREAS, in 1847, the group organized as a congregation of the African Methodist Episcopal Church; and,

WHEREAS, named for Bishop William P. Quinn, the church played an important role in Chicago's abolitionist movement in the years leading up to the Civil War; and,

WHEREAS, the Great Chicago Fire of 1871 destroyed the original church, and the congregation met for many years in temporary locations before purchasing its present site in 1890 at 2401 South Wabash; and,

WHEREAS, the current structure, designed by architect Henry F. Starbuck and built in 1892 is a reminder of the late-19th century character of the area; and,

WHEREAS, the church was designated a Chicago Landmark on August 3, 1977, and was listed on the National Register of Historic Places on September 4, 1979; and,

WHEREAS, several historical figures have spoken from Quinn Chapel's pulpit including individuals such as Presidents William B. McKinley and William Howard Taft, educators George Washington Carver and Booker T. Washington, literary genius Paul Lawrence Dunbar, abolitionist and orator Frederick Douglas, journalist and activist Ida B. Wells, women's suffrage leader Susan B. Anthony, and Martin Luther King Jr., among many more; and,

WHEREAS, Quinn Chapel AME Church has served as a site of worship, charity, education, and community involvement for the past 166 years; and,

WHEREAS, Quinn Chapel's years of service to the community are truly a wonderful blessing; and,

WHEREAS, the members of Quinn Chapel have undoubtedly touched numerous lives over the years and provided a source of inspiration to many people throughout the Chicagoland area; and,

WHEREAS, under the current leadership of Senior Pastor James Moody, Quinn Chapel is thriving and upholding the traditions of its founders; and,

WHEREAS, Reverend Moody's leadership goes beyond the boundaries of the church through his service in the positions of past President of the AME Church Ministerial Alliance of Chicago, Chair of the Board of Trustees of the African American Methodist Episcopal Church Chicago

PROCLAMATIONS

Conference, and Vice President of the Board of "The Renaissance Collaborative" of Chicago; and,

WHEREAS, on July 21, 2013, Quinn Chapel AME Church will be celebrating its 166th anniversary; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 21, 2013 as **QUINN CHAPEL DAY** in Illinois, on the occasion of their 166th anniversary of serving their local community and the State of Illinois.

Issued by the Governor July 8, 2013

Filed by the Secretary of State July 23, 2013

2013-252**Bully Free Day**

WHEREAS, bullying is physical, verbal, sexual or emotional harm or intimidation directed at a person or group of people; and,

WHEREAS, bullying occurs in neighborhoods, playgrounds, schools, and increasingly through modes of technology such as the Internet; and,

WHEREAS, bullying is a significant problem in the United States; and,

WHEREAS, each month, over 280,000 students report being bullied in high schools throughout the United States; and,

WHEREAS, bullying is an undesired, aggressive behavior occurring among various age groups within schools that leaves many students with serious, lasting problems; and,

WHEREAS, over 160,000 absences by students at school can be attributed to their fears of being attacked, harassed, or intimidated by bullies; and,

WHEREAS, bullying is demonstrated through various mediums, including teasing, name-calling, threats, spreading rumors, embarrassing others, hitting, kicking, spitting, destruction of someone's items, cyber-related harassment, and all other unwanted acts of aggression; and,

WHEREAS, bullying is a grim matter that threatens the physical and emotional wellbeing of the individuals of our great State of Illinois; and,

PROCLAMATIONS

WHEREAS, the cities, villages, and municipalities of Illinois must unite in a shared desire to encourage positive behaviors in our schools, and further extinguish bullying; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 19th, 2013 as **BULLY FREE DAY** in Illinois, in order to raise awareness and promote prevention of bullying within our communities. Together, we can reduce bullying and grant the children of our State the peace of mind they deserve to grow into happy, productive citizens.

Issued by the Governor July 9, 2013

Filed by the Secretary of State July 23, 2013

2013-253**Childhood Cancer Awareness Month**

WHEREAS, the types of cancer that children are most often afflicted with are different than those seen in adults; and,

WHEREAS, the types of cancers that occur most often in children include Leukemia, Lymphoma, Bone Cancer, and Retinoblastoma; and,

WHEREAS, 36 American children are diagnosed with cancer daily, and their average age at the time of diagnosis is 6 years; and,

WHEREAS, 10,400 American children were diagnosed with cancer in 2007, and 40,000 children in our country undergo treatment for cancer annually; and,

WHEREAS, childhood cancer rates have been rising slightly for the past few decades, and approximately 11,630 children in the United States under the age of 15 will be diagnosed with cancer in 2013; and,

WHEREAS, three fifths of childhood cancer survivors suffer effects (such as infertility, heart failure and secondary cancers) later in life; and,

WHEREAS, cancer is the second leading cause of death for children under 15 in Illinois, and there were 3,937 Illinoisan pediatric cancer patients aged 0 to 14 in 2009; and,

WHEREAS, due to major treatment advances in recent decades, more than 80% of children with cancer now survive 5 years or more; and,

WHEREAS, despite major treatment advances, it is still critically important to conduct research and increase awareness regarding childhood cancer; and,

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2013 as **CHILDHOOD CANCER AWARENESS MONTH** in Illinois, in order to raise awareness of childhood cancer.

Issued by the Governor July 10, 2013
Filed by the Secretary of State July 23, 2013

2013-254**Sing Tao Newspaper Day**

WHEREAS, since opening its first overseas office in the United States in 1965, Sing Tao Newspaper has served readers of all ages, education, and income levels, including old-time Chinese settlers as well as new immigrants, students, and visitors from mainland China, Taiwan, Hong Kong, and Southeast Asia; and,

WHEREAS, through publishing a Chicago edition since 1980 and maintaining an office in the city, Sing Tao Newspaper has had a strong presence in the Land of Lincoln for many years; and,

WHEREAS, Sing Tao Newspaper's leadership in the community and its dedication to supporting charitable activities such as the arts, cultural activities, and disaster relief are well recognized and have positively impacted the Asian community; and,

WHEREAS, to celebrate an anniversary such as this is a significant milestone for any newspaper, and provides an excellent opportunity to reflect back on all that has been accomplished over the past seventy-five years, while making plans for the future that will build on past successes; and,

WHEREAS, Sing Tao Newspaper's longevity is a testament to the quality of services they provide their readers and the community at large, as well as the relationships they have developed over the years; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 1, 2013 as **SING TAO NEWSPAPER DAY** in Illinois, in commemoration of their 75th Anniversary, and do hereby offer my best wishes for an enjoyable and memorable celebration, and for continued success.

Issued by the Governor July 10, 2013
Filed by the Secretary of State July 23, 2013

2013-255

PROCLAMATIONS

Transverse Myelitis Day

WHEREAS, Transverse Myelitis (TM) is a neurological disorder caused by the inflammation of the spinal cord, resulting in pain, muscle weakness, loss of bowel control and (in severe cases) paralysis; and,

WHEREAS, 60% of TM cases have unknown causes and the remaining 40% are attributed to autoimmune disorders such as multiple sclerosis, Neuromyelitis optica, systemic lupus erythematosus, Mycoplasma pneumonia, Sjoren's syndrome and other Autoimmune disorders; and,

WHEREAS, TM is a rapidly progressing disease, with symptoms developing and worsening within a matter of days; and,

WHEREAS, no effective cure currently exists for TM, and two thirds of those diagnosed with TM show fair to minimal recovery, and of those who do show recovery, this process can take up to two years; and,

WHEREAS, complications from TM can be long lasting and can include pain, muscle stiffness, tightness or spasms, partial or total limb paralysis, sexual dysfunction, osteoporosis, and depression; and,

WHEREAS, TM is a disease that affects all ages, races and genders regardless of family history, although it primarily affects persons between the ages of 10-19 and 30-39; and,

WHEREAS, there are approximately 1400 new cases of TM annually, with 25% of these cases being children; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 6th, 2013 as **TRANSVERSE MYELITIS DAY** in Illinois, in order to raise awareness of Transverse Myelitis within our State.

Issued by the Governor July 10, 2013

Filed by the Secretary of State July 23, 2013

2013-256**National Baton Twirling Week**

WHEREAS, the art of baton twirling positively affects the lives of nearly one-half million young Americans; and,

PROCLAMATIONS

WHEREAS, baton twirling can build the confidence of these young girls and boys, and the dedication learned in training for and practicing the sport is beneficial to many situations in life; and,

WHEREAS, baton twirling is one of the nation's largest movements that is positive for today's young girls; and,

WHEREAS, baton twirling is used in children's hospitals as a unique and effective method of physical therapy; and,

WHEREAS, baton twirlers provide inspiration and wholesome entertainment in our communities; and,

WHEREAS, baton twirlers from all over the United States will gather at the University of Notre Dame from July 23 – 27, 2013, to conduct a colorful pageant entitled "America's Youth on Parade":

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 21 – 27, 2013 as **NATIONAL BATON TWIRLING WEEK** in Illinois, and encourage our citizens to appreciate and support the colorful and beneficial youth movement of baton twirling.

Issued by the Governor July 10, 2013

Filed by the Secretary of State July 23, 2013

2013-257**National Public Lands Day**

WHEREAS, America's system of public lands includes parks, unique landscapes, forests, wildlife refuges, historic trails, natural streams and wetlands, nature centers, gardens and other landmark areas throughout the nation that individually and collectively represent irreplaceable national resources; and,

WHEREAS, public lands provide locally accessible natural and cultural resources for environmental learning, wildlife appreciation and recreation; and,

WHEREAS, public lands promote civic ideals that include shared stewardship and recognition of public ownership; and,

WHEREAS, shared stewardship requires the goodwill, cooperation and active support of citizens, community, city and state officials, business leaders, children and adults; and,

PROCLAMATIONS

WHEREAS, land managers improve public lands for outdoor recreation and provide Americans with an opportunity to engage in regular physical activity; and,

WHEREAS, land conservation builds awareness among urban dwellers with concerns about planned development, shared land use, preservation of wild areas and natural habitats, and the benefits realized by diligent restoration and enhancement efforts; and,

WHEREAS, alliances between private citizens, land managers and community leaders can improve the condition of publicly held lands for the greater enjoyment and enrichment of all Americans; and,

WHEREAS, National Public Lands Day, co-sponsored by the National Environmental Education Foundation, the Bureau of Land Management, the Bureau of Reclamation, the Department of Defense, the Environmental Protection Agency, the National Park Service, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and USDA Forest Service has become an annually anticipated event for local participation on publicly held lands throughout the Land of Lincoln; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 28, 2013 as **NATIONAL PUBLIC LANDS DAY** in Illinois, and encourage all citizens to join in this special observance.

Issued by the Governor July 10, 2013

Filed by the Secretary of State July 23, 2013

2013-258**Illinois Steel Day**

WHEREAS, the structural steel industry in Illinois annually provides structural steel framing systems for more than 35 million square feet of new building construction in Illinois; and,

WHEREAS, the structural steel industry provides employment for more than 2,000 workers in Illinois; and,

WHEREAS, the structural steel industry has demonstrated a significant commitment to sustainable construction through the use of structural steel products made from 93 percent recycled materials from old cars, appliances, stoves, manufacturing waste, curb-side recycling and deconstructed buildings; and,

WHEREAS, 98 percent of the structural steel in a building is recycled at the end of the building's life; and,

PROCLAMATIONS

WHEREAS, structural steel's high strength-to-weight ratio and low carbon footprint help to minimize environmental impacts; and,

WHEREAS, the American Institute of Steel Construction maintains its national headquarters in Chicago, Illinois; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 4, 2013 as **ILLINOIS STEEL DAY**, in recognition of the contributions of Illinois' structural steel industry to the economy and infrastructure of our state.

Issued by the Governor July 11, 2013

Filed by the Secretary of State July 23, 2013

2013-259**Blood Drive Coordinator Month**

WHEREAS, patients in Illinois hospitals require a year-round supply of donated blood; and,

WHEREAS, blood centers rely 100% on donations from volunteer donors in order to maintain a safe and viable blood supply; and,

WHEREAS, a single trauma patient can use over 100 units of blood; and,

WHEREAS, a single donation can save the lives of up to three people; and,

WHEREAS, blood only has a shelf life of 42 days; and,

WHEREAS, blood centers rely heavily not only on blood donated on their premises but on blood drives organized throughout their communities by volunteers; and,

WHEREAS, though there are many honors for donors, volunteer blood drive coordinators are often the "unsung heroes." They are responsible for hundreds of donations and are invaluable to the blood centers; and,

WHEREAS, blood drive coordinators play a vital role in educating the public on the importance of blood donation; and,

WHEREAS, many blood drive coordinators are responsible for the recruitment of many first time blood donors, many of whom become regular donors over the course of their lifetimes; and,

PROCLAMATIONS

WHEREAS, the State of Illinois recognizes the importance of blood donation through the Blood Donation Act, the Employee Blood Donation Leave Act and the Organ Donor Act; and,

WHEREAS, the Illinois Coalition of Community Blood Centers presents annual awards throughout the state to individuals who have made a major impact in their communities through their blood drive collection efforts; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 2013 as **BLOOD DRIVE COORDINATOR MONTH** in Illinois, and encourage Illinoisans to consider volunteering to coordinate a blood drive in their community, and encourage blood centers, units of local government, civic organizations and businesses, and others to honor volunteers in their community who coordinate local blood drives.

Issued by the Governor July 12, 2013

Filed by the Secretary of State July 23, 2013

2013-260**Univision And Teletonusa "Tour of Giving Day"**

WHEREAS, Univision Communications is the leading media company serving Hispanic America; and,

WHEREAS, for the last 50 years, Univision has been dedicated to its mission of informing, entertaining, and empowering Hispanic America; and,

WHEREAS, since 2012, Univision and the TeletonUSA Foundation have partnered to raise money for deserving individuals and their families; and,

WHEREAS, during its first broadcast in 2012, TeletonUSA raised more than \$15.2 million to benefit children with disabilities, cancer, and autism; and,

WHEREAS, this year's "Tour of Giving" campaign, which was kicked off on June 26th, 2013 on Univision's hit morning show "Despierta America," is being made possible by the overwhelming contributions of Univision's generous viewers; and,

WHEREAS, the six stops on the TeletonUSA and Univision "Tour of Giving" include Miami Children's Hospital, SNACK & Friends (Special Needs Activity Center for Kids), Ann & Robert H. Lurie Children's Hospital, Children's Hospital Los Angeles, and Boston Children's Hospital; and,

PROCLAMATIONS

WHEREAS, it is fitting that the "Tour of Giving" is stopping in Illinois, a state with a thriving Hispanic population that has made vast contributions to the Land of Lincoln's economic and cultural vitality; and,

WHEREAS, Univision's leadership in the community and its dedication to supporting charitable activities are well recognized and have positively impacted many Hispanic Americans; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 17, 2013 as **UNIVISION AND TELETONUSA "TOUR OF GIVING" DAY** in Illinois, in support of the "Tour of Giving" and in recognition of today's event at Ann and Robert H. Lurie Children's Hospital.

Issued by the Governor July 15, 2013

Filed by the Secretary of State July 23, 2013

2013-261**Dyslexia Awareness Month**

WHEREAS, millions of Americans throughout the country and the State of Illinois have dyslexia, which is a language-based neurological disorder that affects their ability to read, write, and spell proficiently; and,

WHEREAS, dyslexia occurs among all groups regardless of age, ethnicity, race, socio-economic background, and sex. The disorder is not related to one's level of intelligence or desire to learn; and,

WHEREAS, although the degree of dyslexia varies from person to person, both children and adults can overcome the disorder with proper diagnosis and treatment. Today, many dedicated professionals work in homes and schools to help those with dyslexia; and,

WHEREAS, Everyone Reading Illinois is also dedicated to helping those with dyslexia by promoting literacy through research, education, and advocacy; and,

WHEREAS, last year, other state dyslexia associations offered more than 50 free and successful events about dyslexia to educators, parents, and the public during the month of October, which is recognized as Dyslexia Awareness Month, and they plan to repeat their public awareness campaign again this October; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **DYSLEXIA AWARENESS MONTH** in Illinois, in support of the campaign by Everyone Reading Illinois to raise awareness about this disorder and to help those afflicted with it.

PROCLAMATIONS

Issued by the Governor July 16, 2013

Filed by the Secretary of State July 23, 2013

2013-262**Bear Necessities Pediatric Cancer Foundation's Awareness Day**

WHEREAS, childhood cancer is the number one disease killer and second leading cause of death (exceeded only by accidents) of children; and,

WHEREAS, approximately 36 American children are diagnosed with cancer daily, and their average age at the time of diagnosis is 6 years; and,

WHEREAS, 10,400 American children were diagnosed with cancer in 2007, and 40,000 children in our country undergo treatment for cancer annually; and,

WHEREAS, childhood cancer rates have been rising slightly for the past few decades, and approximately 11,630 children in the United States under the age of 15 will be diagnosed with cancer in 2013; and,

WHEREAS, our children are our most precious resource; and,

WHEREAS, there are a number of organizations dedicated to raising funds for research into pediatric cancer and supporting children and families who are diagnosed with pediatric cancer; and,

WHEREAS, one such organization is Bear Necessities Pediatric Cancer Foundation, named in memory of founder Kathleen Casey's eight year old son, Barrett "Bear" Krupa, who died after a courageous five and a half year battle with Wilms Tumor, a pediatric cancer; and,

WHEREAS, Bear Necessities Pediatric Cancer Foundation is a national organization dedicated to eliminating pediatric cancer and providing hope and support to those who are touched by it; and,

WHEREAS, the mission of Bear Necessities Pediatric Cancer Foundation is carried out through three unique programs which include the Bear Hugs Program, Bear Discoveries and Bear Empowerment; and,

WHEREAS, Bear Necessities Pediatric Cancer Foundation is now in its 20th year of generating funds to reach out to all children in the State of Illinois who will be diagnosed this year with pediatric cancer; and,

PROCLAMATIONS

WHEREAS, the month of September is recognized as Childhood Cancer Awareness Month. Throughout this month, organizations like Bear Necessities Pediatric Cancer Foundation will be conducting outreach efforts to raise awareness of pediatric cancer; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 13, 2013 as **BEAR NECESSITIES PEDIATRIC CANCER FOUNDATION'S AWARENESS DAY** in Illinois, to raise awareness of pediatric cancer, and in support of the organization's dedication to eradicating this devastating disease.

Issued by the Governor July 16, 2013
Filed by the Secretary of State July 23, 2013

2013-263**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 84th annual Bud Billiken® Parade and Picnic to be held this year on August 10, 2013; and,

WHEREAS, for the past 84 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,

WHEREAS, this year's parade theme is "Education You Are Lost Without It" which highlights the importance of educating our children; and,

WHEREAS, Chicago Defender Charities is also recognizing Historically Black Colleges and Universities with its Presidential Reception; and,

PROCLAMATIONS

WHEREAS, the Chicago Defender Charities will continue the green initiative Green Team Conservation & Recycling Program to train, employ and prepare our youth for the emerging 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 10, 2013 as **CHICAGO DEFENDER CHARITIES INC. BUD BILLIKEN® DAY** in Illinois, and urge all citizens to join in the festivities.

Issued by the Governor July 16, 2013
Filed by the Secretary of State July 23, 2013

2013-264**Nelson Mandela Day Of Service**

WHEREAS, Nelson Mandela has devoted his life to the advancement of civil rights, ending apartheid in South Africa, and public service. He believes in the ideal of a democratic and free society, and challenges all citizens to help build a more perfect union and live up to the purpose and potential of South Africa; and,

WHEREAS, born into the Madiba clan in Mvezo, Transkei, Nelson Mandela became actively involved in the anti-apartheid movement in his 20s and joined the African National Congress in 1942; and,

WHEREAS, for 20 years, Nelson Mandela coordinated a campaign of non-violent resistance against the South African government and its discriminatory policies; and,

WHEREAS, those who were drawn to the anti-apartheid cause were inspired by Nelson Mandela's extraordinary example of making sacrifices for the greater good; and,

WHEREAS, after being released from prison, Nelson Mandela continued his activism and was elected as South Africa's first black president on May 10, 1994, at the age of 77; and,

WHEREAS, International Nelson Mandela Day of Service, which is taking place on July 18th, President Mandela's birthday, is an opportune time for the people of Illinois to recognize the life and work of Nelson Mandela and a day for all to serve others; and,

PROCLAMATIONS

WHEREAS, thousands of volunteers in cities and towns across the world will be participating in community service projects during this year's International Nelson Mandela Day of Service; and,

WHEREAS, this day focuses on bringing people together and breaking down the barriers that have divided the people of South Africa; and,

WHEREAS, here in Illinois, we seek to share and celebrate the legacy of Nelson Mandela, a heroic figure whose tenacity and commitment to making the world a better place must never be forgotten; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 18, 2013 as **NELSON MANDELA DAY OF SERVICE** in Illinois, and urge citizens throughout Illinois to recognize former President Nelson Mandela and put his teachings into action by finding ways to give back to their communities on this day and throughout the year.

Issued by the Governor July 17, 2013

Filed by the Secretary of State July 23, 2013

2013-265**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,

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 6 – 12, 2013 as **CAREER AND TECHNICAL ORGANIZATIONS WEEK** in Illinois, in recognition of the contributions made by these organizations to the education of our youth.

PROCLAMATIONS

Issued by the Governor July 18, 2013
Filed by the Secretary of State July 23, 2013

2013-266**Digestive Motility Awareness Month**

WHEREAS, 5 million people, or roughly 2% of the American population, suffer from either Gastroparesis (GP) and or Chronic Intestinal Pseudo-Obstruction (CIP) disorders; and,

WHEREAS, patients with Gatroparesis or Chronic Intestinal Pseudo-Obstruction suffer from debilitating effects of chronic nausea, vomiting, abdominal pain, malnutrition, dehydration, and weight loss because these conditions prevent food from moving through the digestive tract. Without proper treatment and care, these disorders can progress through the digestive tract leading to, in extreme cases, the need for organ transplant; and,

WHEREAS, treatment options for CIP and GP continue to be limited due to the lack of both research and awareness. To date, there is still no cure available for these disorders and available medical options such as drugs aimed at reducing symptoms have either been banned or not approved for use in the USA; and,

WHEREAS, the Gastroparesis Patient Association for Cures and Treatments (G-PACT) is a nonprofit organization that was founded in August 2001 in order to spread awareness about CIP and GP disorders, educate the public about the dangers associated with these disorders and improve research and resources so that treatment will continue to improve; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 2013 as **DIGESTIVE MOTILITY AWARENESS MONTH** in Illinois, in hopes of spreading awareness of this deadly disease and improving the medical resources available to the public.

Issued by the Governor July 18, 2013
Filed by the Secretary of State July 23, 2013

2013-267**Ghanafest Day**

WHEREAS, on July 27, 2013, the Ghana National Council of Metropolitan Chicago is sponsoring the 25th Annual Ghanafest; and,

WHEREAS, Ghanafest attracts thousands of visitors from all over the world. Last year, the festival attracted over twenty thousand participants; and,

PROCLAMATIONS

WHEREAS, Ghanafest is one of the single largest gatherings of African immigrants in the United States; and,

WHEREAS, from traditional African arts and crafts and tribal dress, to extraordinary Ghanaian foods and musical performances, Ghanafest is a great opportunity to experience the rich and diverse culture of Ghana; and,

WHEREAS, past honored guests at the festival have included His Excellency John Dramani Mahama, Vice President of Ghana, and the Honorable Alexander Asum Ahensa, Ghanaian Minister of Chieftaincy and Culture, and His Excellency Daniel Ohene Agyekum, Ghanaian Ambassador to the United States; and,

WHEREAS, Ghanaians and the Ghana National Council are celebrating 25 years of sharing this extraordinary presentation of African culture with all of the people of the Land of Lincoln:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 27, 2013 as **GHANAFEST DAY** in Illinois, and welcome all those attending Ghanafest to celebrate Ghanaian culture and heritage.

Issued by the Governor July 18, 2013

Filed by the Secretary of State July 23, 2013

2013-268**Water's Worth It Month**

WHEREAS, water is an essential and limited natural resource; and,

WHEREAS, the well-being of all people is dependent upon clean and sustainable water supplies, as it serves as a pivotal resource for the healthy operation of the economy, society, environment, and life itself; and,

WHEREAS, thanks to hardworking water professionals and volunteers, Illinois is fortunate to have reliable access to clean water, ensuring that our citizens are healthy; and,

WHEREAS, the abounding successes of Illinois's agricultural, municipal, industrial, and recreational economies are all incontrovertibly joined to the significance of safe, clean water; and,

WHEREAS, the preservation and protection of Illinois's water is a critical endeavor that must be recognized and undertaken by all of the citizens of Illinois; and,

PROCLAMATIONS

WHEREAS, the Water's Worth It campaign, promoted by the Water Environment Federation, is being demonstrated throughout the country to increase community awareness of water—a most essential natural resource; and,

WHEREAS, the Water's Worth It outreach effort will be incorporated into the Water Environment Federation's Annual Technical Exhibition and Conference at the McCormick Place in Chicago from October 5th through 9th. This conference will be hosting more than 18,000 water professionals, 1,000 exhibiting companies, and use more than 280,000 square feet of exhibit space; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **WATER'S WORTH IT MONTH** in Illinois, and encourage all citizens and organizations to understand and acquaint themselves with the challenges involved in maintaining clean and safe water.

Issued by the Governor July 22, 2013

Filed by the Secretary of State July 23, 2013

ILLINOIS ADMINISTRATIVE CODE
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