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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015

20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015
22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1001.30	Amendment
1001.40	Amendment
1001.70	Amendment
1001.80	Amendment
1001.90	Amendment
1001.100	Amendment
1001.110	Amendment
1001.220	Amendment
1001.300	Amendment
1001.320	Amendment
1001.340	Amendment
1001.410	Amendment
1001.420	Amendment
1001.430	Amendment
1001.440	Amendment
1001.442	Amendment
1001.460	Amendment
1001.465	New Section
1001.660	Amendment
1001.670	Amendment
- 4) Statutory Authority: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206, and 6-206.1, and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205, 6-206, and 6-206.1]. Sub-art B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, 6-206.1, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-206.1, 6-208 and 11-501]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by

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Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]

- 5) A Complete Description of the Subjects and Issues Involved: These amendments achieve the following objectives:

In Subpart A:

- Section 1001.30 – Right to Counsel: Amended the rule on pro hac vice to allow the Director of the Department of Administrative Hearings, or his/her designee, to allow attorneys who are not licensed to practice in this State to represent petitioners at hearings. This is authorized by a revision to Supreme Court Rule 707, effective January 1, 2010. Requires corporations and partnerships to be represented by counsel;
- Section 1001.40 – Appearance of Attorney: Expands on the information that an attorney should provide in his/her entry of appearance, to include an e-mail address and website;
- Section 1001.70 – Commencement of Actions; Notice of Hearing: Subsection (a) amended to strike reference to outdated "Illinois Driver Licensing Law", and updates the language in this rule by allowing a Notice of Hearing to be issued by electronic transmission. Language added that all petitions for driving relief will be considered as seeking relief in the alternative unless otherwise specified by the petitioner. Subsection (b) amended to clarify refunds of filing fees. In subsection (c), language added to clarify the Department's position on the location of hearings. Final paragraph in Section is reorganized;
- Section 1001.80 – Motions: Updates subsection (a) to allow motions to be filed by facsimile and electronic transmission as well as by regular mail. Also clarifies where motions must be sent and when considered to be received;
- Section 1001.90 – Form of Papers - Original Documents Required: In subsection (a), filing requirements updated and amended/updated to include website of person/attorney filing papers with the Department of Administrative Hearings. Substantial reorganization of subsection (b), and language added in an attempt to clarify its intent and application, particularly in regards to the exceptions to the requirement of an original document and the procedure to be followed if the petitioner has documents sent by facsimile or electronically. Also eliminates the

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rule that the hearing officer must be able to articulate a specific issue or concern with the authenticity of the document;

- Section 1001.100 – Conduct of Formal Hearings: Section reorganized in a more chronological fashion. Subsection (a) amended/condensed to specifying that hearings are open to the public. A new subsection (b) reorganized and limited to out-of-state hearing process;--see also, amendment of Section 1001.440(o). Subsection (d) language on depositions and interrogatories is amended to be more specific. Subsection (l) clarifies the obligations of the party who requests a subpoena, and language in (l) regarding right to call witnesses is moved to subsection (m). Rule on withdrawing from a hearing in subsection (n) amended. Subsection (s) amended to clarify the petitioner's burden of proof. Rule on provision of interpreters in subsection (t) revised to clarify that it is the petitioner's responsibility to provide language interpreters. Subsection (u) updated to include digital recording of formal hearings and the cost of a transcription;
- Section 1001.110 – Orders; Notification; Time Limits on Obtaining Relief: Subsection (d) amended to clarify that Department will notify a petitioner's attorney, and not the petitioner, of the result of the hearing; facsimile and electronic transmissions added as means of notification.

In Subpart B:

- Section 1001.220 – Hearings: Notice; Location; Procedures; Record: Subsection (a) amended/updated to allow filing of petition by facsimile or electronic transmission as well as regular mail. Outdated language removed from subsection (b). Subsection (d) updated to allow a Notice of Hearing to be issued by electronic transmission. Subsection (e) amended by striking name of hearing officer from the Notice of Hearing. In subsection (i), the rule on pro hac vice is amended to allow the Director of the Department of Administrative Hearings, or his/her designee, to allow attorneys who are not licensed to practice in this State to represent petitioners at hearings. This is authorized by a revision to Supreme Court Rule 707, effective January 1, 2010. Also amended to require that corporations, etc., be represented by counsel, consistent with Section 1001.30. Subsections (j) and (k) updated to include digital recording of a safety responsibility hearing and the cost of a transcription. Rule on provision of interpreters in subsection (l) revised to clarify that it is the petitioner's responsibility to provide language interpreters.

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In Subpart C:

- Section 1001.300(a) amended to clarify applicability of informal hearings. Subsection (b) amended to add to the reasons, offenses, or conditions which prohibit a petitioner from having an informal hearing; exception made in regard to revocations entered pursuant to Section 6-205(a)16 of the IVC (new subsection added by PA 96-1305) See also, the revision of Section 1001.340;
- Section 1001.320: the rule on pro hac vice is amended to allow the Director of the Department of Administrative Hearings, or his/her designee, to allow attorneys who are not licensed to practice in this State to represent petitioners at informal hearings. This is authorized by a recent revision to Supreme Court Rule 5.5, effective January 1, 2010.
- Section 1001.340 Subsection (d) on out-of-state hearing deleted. All out-of-state hearings now will be done as formal hearings.

In Subpart D:

Amended the following definitions (in 1001.410):

- "Accredited educational course" is expanded to include additional activities. Implements PA 95-848, which gives the Secretary of State the authority to issue restricted driving permits to allow petitioners to drive their children to and from school. See also, amendments to 92 Ill. Adm. Code Section 1001.420(b)(4);
- "Alcohol and drug evaluation (Investigative)" is updated to allow the evaluation to be printed, rather than typewritten. (See also, definitions of "Alcohol and drug evaluation (Out-of-state)", "Alcohol and drug evaluation (Uniform Report)", and "Alcohol and drug evaluation (Update)".) Its applicability is also clarified and the list of offenses which require an investigative evaluation are expanded. Some language also updated;
- "Alcohol/drug-related criminal conviction" is amended to include violations of the Methamphetamine Control and Community Protection Act [720 ILCS 646]. Also amended to require a conviction;

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- Definitions of the various types of evaluations amended/updated to clarify that they may be typewritten or "printed". Definition of "Update Evaluation" clarified to state that it must update a Uniform Report;
- "BAIID multiple offender" and "BAIID petitioner" are amended to be consistent with its authorizing statutes, which were recently amended;
- "Documentation of Abstinence" clarified to state that it must conform to standards recited in Section 1001.440(e);
- "DUI disposition" is amended to added offenses of boating under the influence (BUI) and snowmobiling under the influence (SUI), and to clarify that zero tolerance suspensions are not included;
- "High Risk" is amended to clarify the application of this classification to DUI, BUI, and SUI offenders, and to out-of-state dispositions. See also, amendment to definition of "Minimal Risk", "Moderate Risk", and "Significant Risk" classifications;
- "Immediate family" is amended to include grandchildren and stepchildren who live with the petitioner;
- "Undue hardship as it relates to educational pursuits" amended to provide requirements for driving member of immediate family to and from school, and which school activities are included in definition of "educational pursuits". Amendments made to implement authority given to the Secretary of State in PA 95-848;
- All definitions of undue "hardship" are amended to provide for consideration of the hardship on the family unit;

Created new definitions, as follows:

- "Daycare provider Licensed/Unlicensed--children". Implements PA 95-848, which gives the Secretary of State the authority to issue restricted driving permits to allow petitioners to drive their children to and from daycare;
- "Daycare provider Licensed/Unlicensed--elderly or disabled person". Implements PA 96-1180, which gives the Secretary of State the authority to issue restricted

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driving permits to allow petitioners to drive their disabled and elderly persons to and from daycare. See also, new subsection (6) in 92 Ill. Adm. Code Section 1001.420(b);

- "Disabled person". Implements PA 96-1180, which gives the Secretary of State the authority to issue restricted driving permits to allow petitioners to drive their disabled and elderly persons to and from daycare. See also, new subsection (6) in 92 Ill. Adm. Code Section 1001.420(b);
- "Elderly person". Implements PA 96-1180, which gives the Secretary of State the authority to issue restricted driving permits to allow petitioners to drive their disabled and elderly persons to and from daycare. See also, new subsection (6) in 92 Ill. Adm. Code Section 1001.420(b);
- "MDDP holder". To distinguish between one who is issued a MDDP from one who is eligible to apply for a MDDP;
- "Medical cannabis". To implement and provide for authorized use of medical cannabis created by PA 98-122;
- "Near-alcoholic beverage";
- "Problem Driver Point System", taken from 92 Ill. Adm. Code Section 1040.70;
- "Show cause hearing". See also, new Section 1001.465, which codifies hearing process for cancellation of driving privileges;
- "Undue hardship as it relates to court ordered activities" (formerly "community service"). See also, amendments to 92 Ill. Adm. Code 1001.420(b)(3);
- "Undue hardship as it relates to day care". See also, reference to new definitions for "disabled person" and "elderly person" above;
- "Undue hardship as it relates to educational pursuits" is amended to implement PA 95-848. See reference to amended definition of "Accredited educational course" above;

Definition of "JDP" is stricken.

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- Section 1001.420 – Restricted Driving Permits: Subsection (a) amended and expanded to clarify different burden of proof when the petitioner is eligible for reinstatement of driving privileges. In subsection (b), "RDP Classifications" – the purposes of and evidence required for the amended and new community service, educational, and day care permits, mentioned above, are explained. A new subsection (6) states requirements for a day care permit. Further, a new subsection (8) clarifies the requirement of verifying/documenting the need for permits. Subsection (c) updated to reference Monitoring Device Driving Permits. Subsection (d) – "Undue Hardship" is amended to implement the new and revised permits. In subsection (e), adds factors to be considered in deciding whether to issue a restricted driving permit. Subsection (g) amended to clarify impact of pending charges on availability of RDPs; subsection (i), on issuance of "probationary RDP" is clarified; subsection (j), on issuance of RDP to out-of-state residents, is clarified and amended to implement the above-referenced legislation; in subsection (m), applicability of the investigative evaluation is clarified and the list of offenses which require an investigative evaluation are expanded. See also, definitions section.
- Section 1001.430 – Reinstatement of Driving Privileges after Revocation: Subsection (c) amended to add factors to be considered in deciding whether to reinstate driving privileges. See amendments to §1001.420(e) and (i) above. Subsection (d), applicability of the investigative evaluation is clarified and the list of offenses which require an investigative evaluation are expanded; subsection (h) amended to clarify impact of pending charges on availability of RDPs; subsection (i) 75% Rule" is amended in another attempt to clarify its applicability; subsections (k), (l), and (m), provisions on out-of-state petitioners, are extensively amended in an attempt to simplify the out-of-state hearing process.
- Section 1001.440 – Alcohol and Drug Related Revocations, Suspensions, and Cancellations: Subsection (a) amended to include show cause hearings, early intervention classification in alcohol/drug use evaluations, and MDDP offenders; new subparagraph (1)(C) codifies internal policy to waive driver risk education course for those petitioners who complete a High Risk-Dependent treatment program; subparagraph (4) amended to update and clarify the standards for the Uniform Report; subparagraph (5) also updated to include arrests for BUI and SUI; subparagraph (6)(A)(2) amended to clarify rule on treatment provider's ability to conduct update evaluations; subparagraph (6)(B), (C) and (D) amended to update the minimum content of the Illinois and out-of-state update evaluations

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and the investigative evaluation; subparagraph (6)(E) revised in an attempt to clarify when an investigative evaluation must be updated;

Subsection (b) amended to clarify the rehabilitative activity required for the Minimal, Moderate, Significant, and High Risk-Non-Dependent classifications. Subparagraphs are renumbered, beginning with subparagraph (3); renumbered subparagraph (5) amended to codify internal policy that the petitioner's failure to provide an explanation for the High Risk Non-Dependent classification is a ground for denying relief; renumbered subparagraph (7) revised in an attempt to clarify the requirements of a treatment waiver; additional subparagraph (8)-- Treatment Needs Assessment – amended in an attempt to clarify who may provide it and how it should be conducted, including the use of prior treatment documents; subsection (d) updated to include Monitoring Device Driving Permits and amended to provided two (2) more decision-making factors. Subsection (e) amended to clarify the requirement of abstinence and the hearing officer's discretion in weighing the probative value of a petitioner's documentation. This includes a new rule on a petitioner's participation in "Opiate Substitution Programs", the use of prescribed medical cannabis, and the "Consumption of 'near-alcoholic' beverages", and their effect on abstinence. Subsection (g) amended to clarify the hearing officer's discretion in weighing the probative value of a petitioner's documentation of his/her support program; Subsection (l) and subsection (m) amended to clarify the information required in documenting completion of early intervention and treatment programs, respectively; subsection (n) requirements for using an evaluation originally conducted for court purposes are clarified; subsection (o) is an extensive revision of the hearing process for out-of-state petitioners;

- Section 1001.442 – BAIID Provider Certification Procedures and Responsibilities; Certification of BAIIDs; Inspections; BAIID Installer's Responsibilities; Decertification of a BAIID Provider: Several subsections amended to clarify factors/requirements to obtain certification, specify process for suspension and decertification of providers. Subsection (l) amended to provide more detail on notification of a decision to deny certification or a renewal of certification. New subsection (o) on the hearing process to contest denial of certification and of renewal of certificaton;
- Section 1001.460 – Modification of Revocations and Suspensions: extensive revision and reorganization of these provisions in an attempt to clarify their substantive content and application. "Modification" defined; disqualifying factors

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recited and factors to be considered by hearing officer in considering modification recited; new subsection implements recent amendment to Section 6-206 of the IVC (new subsection (a)16)) made by PA 96-1305. Revision/clarification on the terms (lengths) of modifications of discretionary revocations and suspensions, and on credit for military and out-of-state offenses;

- Section 1001.465 – Cancellation of Driving Privileges; Hearing to Contest and Show Cause Hearing. New section which codifies department policy and current in cancellation and show cause hearings.

In Subpart F:

- Section 1001.660 – Alcohol and Drug Education and Awareness Program: updated to include referral to SOS website for information on this program;
- Section 1001.670 – Petitions for Restricted Driving Permits: Subsection (a) and (b) amended to extend applicability and requirement of alcohol/drug use evaluations; offenses added which require a petitioner to obtain an evaluation.

It should be noted that some of the substantive adjustments/amendments recited above are being proposed based upon the Department's experience with the day-to-day application of these rules.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on these Parts? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, nor will it create or enlarge a State mandate.

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

Marc Christopher Loro, Senior Legal Advisor
Department of Administrative Hearings
200 Howlett Building
Springfield IL 62756

217/785-8245
fax: 217/782-2192
mloro@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Service providers licensed by the Division of Alcoholism and Substance Abuse, Illinois Department of Human Services, interlock devices manufacturers and installers.
- B) Reporting, bookkeeping or other procedures required for compliance: BAIID providers are required to maintain a record of whether the MDDP offender they are serving is indigent and, therefore, is not required to pay for the interlock device, and of a surcharge imposed on MDDP offenders who are not indigent and who, therefore, subsidize the indigent permittees. The provider must account for these transactions and is allowed to seek reimbursement, from the Indigent BAIID Fund (funded by the surcharge paid by the MDDP offenders who are not indigent), for their costs of providing interlock services to the indigent offenders. BAIID providers must also provide or report computerized data on the MDDP offenders' compliance with the terms and conditions of the MDDP program.
- C) Types of professional skills necessary for compliance: automobile mechanical, computer uploading

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section

- 1001.10 Applicability
- 1001.20 Definitions
- 1001.30 Right to Counsel
- 1001.40 Appearance of Attorney
- 1001.50 Special Appearance
- 1001.60 Substitution of Parties
- 1001.70 Commencement of Actions; Notice of Hearing
- 1001.80 Motions
- 1001.90 Form of Papers – Original Documents Required
- 1001.100 Conduct of Formal Hearings
- 1001.110 Orders; Notification; Time Limits on Obtaining Relief
- 1001.120 Record of Hearings
- 1001.130 Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section

- 1001.200 Applicability
- 1001.210 Definitions
- 1001.220 Hearings: Notice; Location; Procedures; Record
- 1001.230 Rules of Evidence
- 1001.240 Scope of Hearings
- 1001.250 Decisions and Orders
- 1001.260 Rehearings
- 1001.270 Judicial Review
- 1001.280 Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

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Section

1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Record and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions; Time Limits on Obtaining Relief
1001.370	Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section

1001.400	Applicability; Statement of Principle and Purpose
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
1001.441	Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
1001.442	BAIID Provider Certification Procedures and Responsibilities; Certification of BAIIDs; Inspections; BAIID Installer's Responsibilities; Decertification of a BAIID Provider
1001.443	Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
1001.444	Monitoring Device Driving Permit (MDDP) Provisions
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.465	Cancellation of Driving Privileges; Hearing to Contest and Show Cause Hearing
1001.470	Renewal, Correction and Cancellation of RDPs
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

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Section

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1001.520	Procedure
1001.530	Conduct of Medical Formal Hearings
1001.540	Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

1001.600	Applicability
1001.610	Definitions
1001.620	Burden of Proof
1001.630	Implied Consent Hearings; Religious Exception
1001.640	Implied Consent Hearings; Medical Exception
1001.650	Rebuttable Presumption
1001.660	Alcohol and Drug Education and Awareness Program
1001.670	Petitions for Restricted Driving Permits
1001.680	Form and Location of Hearings
1001.690	Invalidity

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Section

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1001.720	Organization of Motor Vehicle Review Board
1001.730	Motor Vehicle Review Board Meetings
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1001.785	Technical Issues
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1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002;

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emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004; amended at 28 Ill. Reg. 15804, effective November 19, 2004; amended at 31 Ill. Reg. 6185, effective May 1, 2007; amended at 31 Ill. Reg. 14837, effective November 1, 2007; amended at 33 Ill. Reg. 282, effective January 1, 2009; emergency amendment at 35 Ill. Reg. 3848, effective February 15, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 10934, effective June 21, 2011; amended at 36 Ill. Reg. 7300, effective April 30, 2012; amended at 37 Ill. Reg. 5844, effective April 19, 2013; amended at 39 Ill. Reg. 2718, effective February 6, 2015; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section 1001.30 Right to Counsel

- a) Attorneys Must be Licensed; 711 Students. Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois, or any law student licensed under Supreme Court Rule 711, in any hearing in any matter involving the exercise of legal skill or knowledge. [ILCS S. Ct. Rule 711]
- b) Pro Hac Vice. Attorneys admitted to practice in states other than the State of Illinois may appear and be heard in a specific hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, by special leave of the Director of the Department or the Director's designee, pursuant to an Order pro hac vice, as authorized by Supreme Court Rule 707 [ILCS S. Ct. Rule 707] and the Illinois Rules of Professional Conduct Rule 5.5, effective January 1, 2010~~entered by a judge of the circuit court of the county in which the hearing is conducted, as provided in Supreme Court Rule 707.~~
- c) Pro Se. A natural person may appear and be heard on his or her own behalf.
- d) Corporations, Limited Liability Companies, and Partnerships. A corporation, association, limited liability company or partnership must appear by legal counsel, licensed to practice in the State of Illinois or appearing pro hac vice~~may appear and present evidence by any bona fide officer, employee, or representative.~~

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- e) The standard of conduct shall be the same as before the Courts of Illinois.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.40 Appearance of Attorney

An attorney appearing in a representative capacity shall file a written notice of appearance with the Department of Administrative Hearings office where the formal hearing is requested or pending, identifying himself or herself by name, address, electronic mail address, website, facsimile number, telephone number, and Supreme Court registration number, and identifying the party represented.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.70 Commencement of Actions; Notice of Hearing

- a) Petition; Notice of Hearing

- 1) A contested case is commenced by the Office, either after the written request of the petitioner or on the Office's initiative, by service of a Notice of Hearing in accordance with Section 2-114, within the time limitation contained in Sections 2-118(a) and (b) and 3-402.B(7)(a) and (b), as applicable, ~~of the Illinois Driver Licensing Law~~ of the Illinois Vehicle Code ~~(Code)~~ [625 ILCS 5/2-114, 2-218(a) and (b), and 3-402.B(7)(a) and (b)] upon the respondent. By "written request" it is meant that the petitioner may send the Office a petition via facsimile, electronic transmission, or regular mail. The Notice of Hearing may be sent by electronic transmission, if the petitioner agrees to receiving the Notice of Hearing and Decision and/or Order via electronic transmission.
- 2) Any petition for reinstatement of driving privileges will also be considered a petition for a restricted driving permit, unless the petitioner specifically waives any consideration for alternative relief.

- b) Filing Fee

- 1) A petition for a hearing will not be accepted for filing unless it is accompanied by a fee of \$50, as provided in Sections 2-118 and 3-402.B(7)(a) of the Illinois Vehicle Code. This filing fee must be

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submitted in the form of a money order, a check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.

- 2) This filing fee will not be refunded to the party requesting a hearing if the hearing proceeds, the party submits multiple petitions for a hearing to different hearing locations simultaneously, the party withdraws from the hearing or an order of default is entered~~defaults~~. The party will be required to submit another filing fee before another hearing will be scheduled.
 - 3) In cases where a hearing is continued, the party requesting the hearing will not be required to submit another filing fee.
 - 4) In cases where the party requesting a hearing withdraws or defaults, the party will be required to submit another filing fee before another hearing will be scheduled.
- c) The Notice of Hearing shall include:
- 1) The names and addresses of all known parties, petitioner and respondent, including the department initiating the hearing;
 - 2) Whether the hearing is at the request of the petitioner or the Department;
 - 3) The time, date, and place of hearing. The Department will endeavor to accommodate a party's request regarding the location of a hearing, but reserves the discretion to schedule a hearing at a site that is mutually convenient for all parties involved, including witnesses, and subject to the constraints imposed by budgetary and personnel considerations;
 - 4) A short and concise statement of facts (as distinguished from conclusions of law or a mere recitation in the words of the statute) alleging the act or acts done by each petitioner or, where appropriate, respondent; the time, date, and place each such act was done or a short and concise statement of the matters asserted; and the rule, statute, or constitutional provision, if any, alleged to have been violated, or otherwise involved in the proceeding; and the relief sought by the petitioner party;
 - 5) A statement to each party that:

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- A) Such party may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate in the hearing.
- B) Failure to so appear shall constitute a default, unless such party has, upon due notice to other parties, moved for and obtained a continuance from the hearing officer.
- C) Delivery of notice to the designated representative of a party constitutes service upon the party.
- ~~D) A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence which involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court which states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections which reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, and for the issuance of a restricted driving permit pursuant to Sections 6-205(e) and 6-206(e)3 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.~~
- d) Requirements for Felony Convictions Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, and for the issuance of a

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restricted driving permit pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.80 Motions

- a) Form of Motions. All motions shall be made in writing and shall set forth the relief or order sought and shall be filed with the Department at the earliest time to be considered by the hearing officer. Motions may be hand delivered or sent by regular mail, by courier, or by facsimile transmission, must be sent to the hearing location designated in the notice of hearing, and are considered received on the date that they are file-stamped by Department personnel. Motions based on matter that does not appear of record shall be supported by affidavit. Motions may be presented by a party to obtain appropriate relief, such as to dismiss the proceedings, to add necessary parties, or to extend time for compliance of an order.
- b) Motions to Correct or Reconsider. The Department will not consider motions to correct a material misstatement of fact or to reconsider a decision made or Order entered in a formal hearing. The proper avenue of relief is to file a complaint under the Administrative Review Law. The petitioner may also file another petition for driving relief pursuant to Section 1001.450.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.90 Form of Papers – Original Documents Required

- a) Form of Papers. All papers filed in any proceeding shall be clearly written or typewritten ~~on white paper using one side of the paper only~~. They shall contain a caption showing the title of the proceeding with a case number. All papers must be signed or verified by the party filing the papers or his/her authorized representative or attorney, and shall contain his or her address, telephone number, website and electronic mail address, if available. An original and one copy shall be filed by each party, except as provided in subsection (b).

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- b) Original Documents Required. In regard to documents that are submitted pursuant to the requirements of Subpart D and that have not been previously submitted to the Department, the Department will accept, or admit into evidence, only the original document, except as specified in this subsection. By original document is meant a document that bears the original signature of the petitioner and/or author of the document, as applicable.
- 1) Uniform Reports; Original Required. The requirement of the submission of an original document that must also be submitted to a court of venue can be met in one of two ways:
- A) Service providers can print multiple "originals", all of which are signed and dated by the provider and the petitioner; or
- B) The provider can make a photocopy of the original and the provider and petitioner can sign and date (or re-sign and re-date a second time) both the original and the copy.
- ~~A) The requirement of the submission of an original document that must also be submitted to a court of venue, can be met in one of two ways:~~
- ~~i) service providers can print two "originals", both of which are signed and dated by the provider and the petitioner; or~~
- ~~ii) the provider can make a photocopy of the original (before it is verified) and the provider and petitioner can sign and date both the original and the copy.~~
- ~~B) Exceptions to this requirement will be considered only if the petitioner is able to demonstrate that the original document is no longer available from the agency that composed the Uniform Report. In such cases, the petitioner must submit a "Verification Form" that the Department has composed, published, and distributed to service providers, and upon which the service provider shall verify that the copy of the document is a true and correct/identical copy of the original and/or inform the Secretary of State of the reason that the original of a document is not available.~~

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~~In such a case, the petitioner also will be asked to explain, under oath, why an original Uniform Report is not available.~~

- 2) ~~Update~~Updated Evaluations; Original Required. The first time that an ~~update~~updated evaluation is submitted to the Secretary of State, it must be submitted as an original document. See Sections 1001.410 and .440(a)(6). At subsequent submissions of the same document, such as when renewing a restricted driving permit at an informal hearing, the petitioner may submit a copy of the ~~update~~updated evaluation.
- 3) Treatment Verification; Original Required. The rules of the Secretary of State require petitioners to submit proof of the successful completion of alcohol or drug related treatment in a "narrative summary" or a similar report that ~~shall provide~~provides the information listed at Section 1001.440(m)(1). The Department has composed, published, and distributed a "Treatment Verification Form", which it prefers and strongly encourages that~~to be used or replicated by~~ treatment providers use and replicate for this purpose. The first time that this document, or a narrative summary composed on a treatment provider's letterhead, is submitted, it must be submitted to the Secretary of State as an original.
 - A) As specified in Section 1001.440(m)(2), the Department will accept a copy of the petitioner's Individualized Treatment Plan and Discharge Summary.
 - B) As specified in Section 1001.440(m)(3), the Department will accept a copy of the Continuing Care Plan. The other Continuing Care documents that must be submitted to the Secretary of State (periodic status reports and the final summary report, or the waiver of continuing care) must be submitted as originals, on the provider's letterhead ~~stationery~~stationary.
- 4) Driver Risk Education; Original Not Required. The Department will accept a copy of the form used by service providers to record and verify successful completion of a Driver Risk Education course. See Section 1001.440(a).
- 5) Exceptions; Verification Form Allowed. Exceptions to the requirement that the original document be submitted will be considered only if the

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petitioner is able to demonstrate that the original document is no longer available from the agency that composed the document. In these cases, the petitioner must submit a "Verification Form" that the Department has composed, published and distributed to service providers. On the Verification form the service provider shall verify that the copy of the document is a true and correct/identical copy of the original or of the document that was received from another agency and is contained in its file, and/or inform the Secretary of State of the reason that the original of a document is not available.

- 65) Other Documents; Original Preferred. All other documents that are composed or created solely for the purpose of being submitted to the Secretary of State at a formal or informal hearing ~~should~~must be submitted as originals. (For example: the Secretary of State medical report forms; reports/evaluations from psychiatrists, clinical psychologists, or other counselors; letters from probation officers or physicians; letters of reference ~~to verify abstinence or attendance of support/recovery program meetings~~; verification of employment.
- 76) Documents Sent by Facsimile or Electronic Transmission. Documents recited in this Section that must be submitted as an original but are, instead, sent by facsimile or electronic transmission will be accepted at the time of the hearing; however, the originals of the ~~faxed~~ documents must be submitted at a later date. Leave to submit the originals will be granted within no more than ~~14~~fourteen calendar days after the hearing. The presiding hearing officer will determine the specific number of days within which the petitioner is allowed to submit the original, based upon the circumstances of each individual case.
- 87) The failure of the petitioner to submit an original document as required in this Section shall not, in and of itself, constitute, under any circumstance, the sole basis of denying driving relief. ~~Rather, relief may be denied or a document rejected only when the hearing officer is able to articulate a specific issue or concern with the authenticity of the document.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.100 Conduct of Formal Hearings

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- a) ~~Location; Open to Public; Out-of-state Petitioners.~~ All hearings conducted in any proceeding shall be open to the public. ~~Pursuant to statute, formal hearings may be conducted in Springfield, Chicago, Joliet, Mt. Vernon, or such other locations as agreed upon by the Secretary and the petitioner/respondent.~~
- b) Out-of-state Petitioners. An out-of-state petitioner is defined as a petitioner who never resided in Illinois, or who has permanently relocated outside of the State of Illinois. Out-of-state petitioners have the option of submitting written application for driving relief in lieu of returning to Illinois for a formal hearing. These petitioners shall be deemed to have waived the right to appear in person.
- 1) Out-of-state petitioners must initially submit the filing fee, authorized by Section 2-118 of the Code and Section 1001.70(b)(1) of this Part, and evidence of their residency, such as, but not limited to, voter registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions that fail to provide this evidence or establish residency. The Department also reserves the discretion to reject out-of-state petitions if there is evidence that the petitioner is regularly present in the State of Illinois, for such reasons as, but not limited to, through work, school or family contacts and is capable of attending a hearing in person in a timely manner. An out-of-state petitioner who chooses to appear in person must either testify to, or provide documentation of, the location of his or her current residency.
- 1) ~~In petitions for driving relief, petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois may make, except as provided in subsection (a)(2), written application in lieu of returning to Illinois for a formal hearing. These petitioners shall be deemed to have waived the right to appear in person. Out-of-state petitioners must initially submit the filing fee authorized by Section 2-118 of the Illinois Vehicle Code and Section 1001.70(b)(1) of this Subpart A, and evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions that fail to provide this evidence or establish residency. The Department also reserves the~~

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~~discretion to reject an out-of-state petition if there is evidence that the petitioner is regularly present in the State of Illinois, such as through work, school, or family contacts, but not limited thereto, and is capable of attending a hearing in person in a timely manner.~~

~~2) Out-of-state petitioners who reside within 30 miles of the Illinois border shall be required to attend a hearing in person, unless the petitioner shows good cause for not being able to attend in person. Good cause is shown when it is demonstrated by a written statement that the petitioner cannot attend a formal hearing in person due to economic, physical, or medical reasons. Mere inconvenience does not constitute good cause.~~

~~23)~~ Except as provided in Sections 1001.430(k) and (1) and 1001.440(o), out-of-state petitioners must submit at a minimum all documentation and information required by Subpart D of this Part, as well as a sworn Out-Of-State Petitioner's Affidavit, that provides the information otherwise required by the Secretary, at a formal hearing.

~~34)~~ A petition for an out-of-state formal hearing is regarded as being filed when the Department accepts, as fully completed, the documentation required by subsection ~~(b)(2)(a)(3)~~. The Department will inform the petitioner of this fact by a dated letter posted in the regular mail or by electronic transmission. Pursuant to Section 2-118 of the Code, the petitioner's file will be assigned to a hearing officer within 90 calendar days from the date of filing. A final Order will be entered no more than 90 days after it is assigned to a hearing officer.

~~cb)~~ Formal Hearings Generally; Parties to a Hearing; Disqualification of Hearing Officer. Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence. The Secretary may also appoint a representative to appear and participate in the hearing on his/her behalf. Prior to the taking of evidence, the petitioner/respondent may request disqualification of the hearing officer by making a motion for disqualification on the record, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner/respondent by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed, or the

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petitioner may withdraw from the hearing. If the motion is granted, the case shall be transferred to another hearing officer for a hearing on the same day if possible. If it is not possible to schedule a hearing on the same day, a new hearing date shall be scheduled and another hearing officer shall be assigned by the Secretary. ~~The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.~~

de) Depositions and Interrogatories-

- 1) Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may ~~take~~ take cause, at his/her or its expense, the testimony of any party or person by deposition upon oral examination or written questions for the purpose of discovery or for use as evidence in the action ~~deposition of any witness to be taken for use as evidence~~ in a contested case (for example, when the witness is not available due to distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors). The notice, order or stipulation to take a deposition shall specify whether the deposition is to be a discovery deposition or an evidence deposition. In the absence of specification, a deposition is a discovery deposition only. If both discovery and evidence depositions are desired of the same witness, they shall be taken separately, unless the parties stipulate otherwise or the hearing officer orders otherwise upon notice and motion. The deposition shall be taken in the manner provided by law for discovery and evidence depositions in civil actions in the Circuit Courts of Illinois.
- 2) Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party. Sworn answers or objections to interrogatories directed to the Department and/or Secretary of State may be made by a designated agent, including the Department's counsel, who shall furnish such information as is available. Written interrogatories shall be served on the opposing party no later than 15 business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the hearing officer, who shall rule on the

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objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense. [The requirements of this subsection \(d\)\(2\) do not apply to objections or refusals to answer interrogatories.](#)

~~ed~~) Rules of Evidence-

- 1) The technical rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule that might make improper the admission of the evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded upon objection. Objections to evidentiary offers may be made and shall be noted in the record, and ruled upon by the hearing officer. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this subsection, a party may conduct cross-examination required for a full and fair disclosure of the facts.
- 2) In regard to implied consent hearings over which the Secretary of State has jurisdiction, the hearing may be conducted upon a review of the official police reports. However, the parties may subpoena the arresting officer and any other officer who was involved in the petitioner's arrest or processing after arrest, as well as any other person whose testimony may be probative to the issues at the hearing. The failure of an officer to answer the subpoena shall be considered grounds for a continuance if, in the hearing officer's discretion, the continuance is appropriate. Furthermore, the failure of the arresting officer to answer a subpoena shall not be considered grounds for the rescission of an implied consent suspension. Rather, the hearing shall proceed on the basis of the other

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evidence available and the hearing officer will assign this evidence whatever probative value he or she deems appropriate.

- f) List of Witnesses; Bill of Particulars. Upon written request, made at least 10 business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, or furnish written answers to a written demand for a bill of particulars.
- g) Inspection of Documents; Interview of Parties. Any party or his/her representative shall have a right, upon the filing of a written motion with proper proof of service, to inspect any relevant document in the possession of or under the control of any other party prior to the formal hearing. The inspection of documents shall occur at the location the formal hearing is scheduled. Any party may file a written motion seeking to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may interview, at his/her or its expense, parties or persons having knowledge of relevant facts. Interviews of persons and inspection of documents shall be at times and places reasonable for the persons and for the custodian of the document.
- h) Admissions. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.
- i) Right to Call Witnesses, Cross-Examine, Subpoena Documents and Introduce Exhibits. Each party shall have the right to request the subpoena of, and to call and to examine, witnesses, to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Applications to the hearing officer assigned to the case for subpoenas duces tecum shall specify the books, papers and documents desired to be produced.
- e) ~~Official Notice. Official notice may be taken of past hearings and any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or~~

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~~during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Department's and the hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.~~

- ~~j)f)~~ Pre-hearing Conference. At the request of any party or upon the hearing officer's~~his or her~~ own motion, the hearing officer may call a pre-hearing~~prehearing~~ conference. At the conference, the parties or their representatives shall appear as the hearing officer directs. Matters that may be considered at a pre-hearing~~prehearing~~ conference include, but are not limited to:
- 1) The simplification of the issues;
 - 2) Amendments to the grounds for action;
 - 3) The possibility of obtaining admissions and stipulations of fact and of documents that will avoid unnecessary proof;
 - 4) The limitation of the number of expert witnesses;
 - 5) Any other matters which may aid in the disposition of the contested case.
- ~~k)g)~~ Order from Pre-hearing Conference. Upon the conclusion of a pre-hearing conference, the hearing officer shall enter an order that recites any action taken, any agreements made by the parties as to any of the matters considered, and the issue to be heard.
- ~~h)~~ List of Witnesses; Bill of Particulars. ~~Upon written request, made at least 10 business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, or furnish written answers to a written demand for a bill of particulars.~~
- ~~i)~~ Inspection of Documents; Interview of Parties. ~~Any party or his representative shall have the right, upon written motion made at least 10 business days prior to the hearing, to inspect any relevant documents in the possession of or under the control of any other party and to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Interviews of persons and inspection of documents shall be at times and places reasonable for~~

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~~the persons and for the custodian of the document.~~

- ~~l~~) Oath. Testimony shall be taken only on oath or affirmation.
- ~~k~~) ~~Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.~~
- ~~l~~) ~~Right to Subpoena. Each party shall have the right to request the subpoena of and to call and to examine witnesses, to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Applications to the hearing officer assigned to the case for subpoenas duces tecum shall specify the books, papers, and documents desired to be produced.~~
- m) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.
- n) Official Notice. Official notice may be taken of past hearings and of any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Department's and the hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.
- o) m) Rights of Parties. Each party shall have the right to rebut the evidence against him; to appear in person; and to be represented by counsel. If a party does not testify in his/her own behalf, he or she may be called by the Secretary of State's representative and examined as if under cross-examination.
- n) Motions to Continue and Withdraw
 - ~~l~~) ~~Grounds. Hearings before the Department of Administrative Hearings will be continued only pursuant to a motion: filed prior to or on the date of the hearing, made over the telephone less than 15 days prior to or on the date of the hearing, or in person on the day of the hearing. The movant shall set forth the grounds for the motion, which are limited to unforeseen,~~

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~~unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the movant or a member of his/her immediate family, or of the movant's legal counsel, or if the movant is able to demonstrate some other real and compelling need for additional time. A Motion to Continue may be supported by evidence which tends to prove the grounds alleged, including sworn testimony taken at a motion hearing on the day of the hearing. The inability to obtain transportation to the hearing site or a party's failure or inability to obtain the documentation required to fulfill the minimum requirements to be issued driving relief are not circumstances that will justify continuing a hearing.~~

- 2) ~~Must be Continued to a Date Certain. A formal hearing shall not be continued "generally". A continuance, if granted, shall state a date certain upon which the hearing shall reconvene. If the petitioner is not prepared to go forward after the first continuance, a request to withdraw should be submitted.~~
- A) ~~Motions to Continue which are filed at least 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date will be given priority in re-scheduling over those motions filed or made less than 15 days prior to the date of the hearing or made on the day of the hearing. The Department will rule upon Motions to Continue filed at least 15 days prior to the date of the hearing and, when possible, notify the movant of its ruling prior to the date of the hearing. If the motion is denied, then the movant must appear at and proceed with the hearing or withdraw from the hearing.~~
- B) ~~Motions to Continue which are made in person on the day of the hearing or by telephone less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must also be filed in writing and received or postmarked no more than 5 days after the date of the hearing. A Motion to Continue made in writing less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must be received or postmarked no more than 5 days after the date of the hearing. The Department cannot assure the movant that it will rule upon such motions prior to the~~

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~~date of the hearing.~~

- ~~C) A Motion to Continue made or filed by a petitioner waives the statutory requirement of Sections 2-118 and 3-402.B(7)(a) of the Code that his/her hearing commence within 90 days from the date of his/her written request.~~
- ~~D) It is the responsibility of the movant to inform the Department, in the Motion to Continue or during his/her telephone conversation, what course of action he/she wishes to take if the motion is denied (either to appear and proceed with the hearing, withdraw or default). In all cases, it is also the responsibility of a movant who has not been notified of the Department's ruling to contact the Department on or before the day of the hearing to determine whether his/her motion has been ruled upon. A movant's failure to appear after a Motion to Continue is denied will result in the entry of an Order of Default.~~
- 3) ~~Motions Made by the Department. The Department may also make or file a Motion to Continue for unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the hearing officer, the attorney representing the Secretary of State, a witness, or a member of the immediate family of the same, or if the Department is able to demonstrate some other real and compelling need for additional time.~~
- 4) ~~Motions to Withdraw. Except as provided in this subsection (n)(4) and in Section 1001.70, a petitioner may withdraw from a hearing for any reason. A Motion to Withdraw made in person or by telephone on or before the day of the hearing must be followed up with a written motion that is received or postmarked no more than 5 days after the date of the hearing. A Motion to Withdraw made in writing must be received or postmarked no more than 5 days after the date of the hearing. Failure to do so will result in an Order of Default. A request to withdraw from a hearing, which in the hearing officer's judgment is based upon surprise of evidence presented or adverse evidence, shall not be granted. Upon withdrawal, the requested relief will not be considered and the petition dismissed. Should the petitioner request another hearing, it must be done in writing and it will be treated as any other request for hearing. (See Section 1001.70.)~~

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- 5) ~~Attorney's Appearance Must be on File. A Motion to Continue or Withdraw made by any attorney on behalf of a petitioner/respondent will not be considered unless the attorney shall have filed a written notice of appearance as provided in Section 1001.40.~~
- 6) ~~Out of State Petitioners. An out of state petitioner who fails to provide the information required by Sections 1001.100(a)(3) and 1001.440(o) within 30 days after a written demand made by the Department to his/her last known address shall have his/her petition withdrawn by a written Order of the Director or Deputy Director. The Order shall be made part of the petitioner's permanent record and a copy shall be sent to the petitioner's last known address. The Department shall not accept another petition for driving relief from a petitioner whose petition for driving relief has been withdrawn pursuant to this provision for 30 calendar days from the date of the Order.~~
- o) ~~Admissions. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.~~
- p) Opening and Closing Statements. Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements. Opening statements may not be made at any other time, except at the discretion of the hearing officer. Upon the close of the hearing each party may make a closing statement orally and/or by written brief at the discretion of the hearing officer, incorporating arguments of fact and law. A written brief may be required when the facts and issues are deemed complicated by the hearing officer and there is a need for the parties to plead their cases in writing for the record.
- q) Exhibits. All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the hearing officer.
- r) Cross-examination of Witnesses. In the hearing of any case, any party or his agent may be called, as an adverse witness and examined as if under cross-examination, by any party. The adverse party calling for the examination is not bound by the testimony of the adverse witness, but may rebut the testimony given

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and may impeach the witness by proof of prior inconsistent statements. If the hearing officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling an occurrence witness may, upon showing that he called the witness in good faith but is surprised by his testimony, impeach the witness by proof of prior inconsistent statements.

- s) Burden of Proof; General and Exception. The general burden of proof is upon the petitioner for any relief in a hearing. The standard of proof is the preponderance of the evidence, except as provided for in Subpart D, where the burden of proof is upon the petitioner to prove each issue or element of proof by clear and convincing evidence.
- t) Interpreters; Hearing Impaired. The Secretary will provide, upon prior written request, an interpreter for hearing impaired petitioners/respondents who wish to testify; providing a language interpreter, however, is the responsibility of the petitioner/respondent.
- u) Report of Proceedings; Obtaining a Copy of Record
 - 1) The Department shall, at its expense, have present at each formal hearing an electronic or digital recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, including: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the hearing officer and of the parties and/or their representatives, all rulings of the hearing officer.
 - 2) Upon written request and at his/her own expense, any party may obtain have a copy of the report of proceedings, from the court reporter, or copied ~~transcribed~~ from the electronic device by the Department ~~at the statutory rate set forth in Section 5.5 of the Secretary of State Act [15 ILCS 305/5.5] and 2 Ill. Adm. Code 551.150, or the cost of an audio tape plus mailing.~~ The party must pay \$25 to the Secretary of State, in advance, to cover the cost of making an electronic or digital copy and mailing.
- v) Motions to Continue and Withdraw; Leave to Submit Original Documents

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- 1) Motions to Continue by Petitioner or Respondent; Grounds. Hearings before the Department of Administrative Hearings will be continued only pursuant to a motion that complies with the requirements of Section 1001.80 and is: filed prior to or on the date of the hearing, made over the telephone less than 15 days prior to or on the date of the hearing, or made in person on the day of the hearing. The movant shall set forth the grounds for the motion, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the movant, a member of his/her immediate family, or the movant's legal counsel, or if the movant is able to demonstrate some other real and compelling need for additional time. A Motion to Continue may be supported by evidence that tends to prove the grounds alleged, including sworn testimony taken at a motion hearing on the day of the hearing. The inability to obtain transportation to the hearing site or a party's failure or inability to obtain the documentation required to fulfill the minimum requirements to be issued driving relief are not circumstances that will justify continuing a hearing.

- 2) Continued to a Date Certain. A formal hearing shall not be continued "generally". A continuance, if granted, shall state a date certain upon which the hearing shall reconvene. If the petitioner is not prepared to go forward after the first continuance, a request to withdraw should be submitted or an Order of Default shall be entered.
 - A) Written Motions to Continue filed at least 15 days prior to the date of the hearing specified in the Notice of Hearing or notice of a continued hearing date will be given priority in rescheduling over those motions filed or made less than 15 days prior to the date of the hearing or made on the day of the hearing. The Department will rule upon Motions to Continue filed at least 15 days prior to the date of the hearing and, when possible, notify the movant of its ruling prior to the date of the hearing. If the motion is denied, the movant must appear at and proceed with the hearing or withdraw from the hearing or an Order of Default shall be entered.

 - B) Motions to Continue made by telephone less than 15 days prior to the date of the hearing, specified in the Notice of Hearing or notice of a continued hearing date must also be filed in writing and received or postmarked no more than 5 days after the date of the

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hearing to be considered. A Motion to Continue made in writing less than 15 days prior to the date of the hearing specified in the Notice of Hearing or notice of a continued hearing date must be received and postmarked no more than 5 days after the date of the hearing. The Department cannot assure the movant that it will rule upon these motions prior to the date of the hearing.

- C) A Motion to Continue made or filed by a petitioner waives the statutory requirement of Sections 2-118 and 3-402.B(7)(a) of the Code that his/her hearing commence within 90 days from the date of the written request.
- D) It is the responsibility of the movant to inform the Department, in the Motion to Continue or during his/her telephone conversation, what course of action he/she wishes to take if the motion is denied (either to appear and proceed with the hearing, withdraw or default). In all cases, it is also the responsibility of a movant who has not been notified of the Department's ruling to contact the Department on or before the day of the hearing to determine whether the hearing officer has ruled on his/her motion. A movant's failure to appear after a Motion to Continue is denied will result in the entry of an Order of Default.
- 3) Motions Made by the Department. The Department may also make or file a Motion to Continue for unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the hearing officer, the attorney representing the Secretary of State, a witness, or a member of the immediate family of one of these entities, or if the Department is able to demonstrate some other real and compelling need for additional time.
- 4) Motions to Withdraw. Except as provided in this subsection (v)(4) and in Section 1001.70, a petitioner may withdraw from a hearing for any reason. A Motion to Withdraw made in person or by telephone on or before the day of the hearing must be followed up with a written motion that is received no more than 10 days after the date of the hearing. A Motion to Withdraw made in writing must be received or postmarked no more than 10 days after the date of the hearing. Failure to do so will result in an Order of Default. Once a petitioner is placed under oath, a request to

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withdraw from a hearing that, in the hearing officer's judgment, is based upon surprise evidence presented or adverse evidence, shall not be granted. Upon withdrawal, the requested relief will not be considered and the petition dismissed. Should the petitioner request another hearing, it must be done in writing and it will be treated as any other request for hearing. (See Section 1001.70.)

- 5) Motions for Leave to Submit Original Document. As provided in Section 1001.90(b)(7) and (8), the petitioner may request leave to submit original documents if the petitioner proceeds with the hearing, offering copies of documents when originals are required. The hearing shall be completed and the petitioner shall be granted leave to submit the original documents as provided in Section 1001.90(b)(7) and (8).
- 6) Attorney's Appearance on File. A Motion to Continue or Withdraw made by any attorney on behalf of a petitioner/respondent will not be considered unless the attorney has filed a written notice of appearance as provided in Section 1001.40.
- 7) Out-of-State Petitioners. An out-of-state petitioner who fails to provide the information required by Sections 1001.100(b)(2) and 1001.440(o) within 30 days after a written demand made by the Department to his/her last known address shall have his/her petition withdrawn by a written Order of the Director or Deputy Director. The Order shall be made part of the petitioner's permanent record and a copy shall be sent to the petitioner's last known address. The Department shall not accept another petition for driving relief from a petitioner whose petition for driving relief has been withdrawn pursuant to this provision for 30 calendar days from the date of the Order.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.110 Orders; Notification; Time Limits on Obtaining Relief

- a) The Department shall prepare a written order for all final determinations, which shall include the Findings of Fact, Conclusions of Law, Recommendations of the hearing officer, and the Order of the Secretary.
- b) The hearing officer shall prepare the Findings of Fact, Conclusions of Law, and

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Recommendations to the Secretary. The Findings of Fact and Conclusions of Law must be stated separately.

- c) The Order of the Secretary of State shall be the decision of the Office upon the application for relief.
- d) The Department shall notify all parties ~~orand~~ their agents personally, by facsimile, regular mail or ~~by~~ electronic transmission~~mail~~, of the Findings of Fact, Conclusions of Law, Recommendations, and the Order within the statutory time limit specified in Section 2-118 of the Code. If it is the Order of the Secretary of State to grant driving relief, then the Department will also provide instructions on what steps the petitioner must take (such as, but not limited to, filing high-risk insurance, the payment of fees, taking driving tests, etc.) in order to obtain the relief. The failure to follow and complete these instructions will result in the denial of driving relief.
 - 1) Petitioners who are granted a restricted driving permit must complete the requirements for obtaining the permit within 90 days after the date of the Secretary's Order. The Department reserves the discretion to extend this deadline in order to allow a petitioner to achieve compliance, when it is apparent that the petitioner is making a good faith effort or the petitioner demonstrates that he or she has experienced a change in circumstances that requires the petitioner to provide additional information (such as, but not limited to, a change in employment).
 - 2) Petitioners who are granted the reinstatement of driving privileges must complete the requirements for effecting reinstatement within 365 days after the date of the Secretary's Order.
- e) An Order of Default shall be entered against the petitioner or respondent, who fails to appear for a hearing at the scheduled time and has failed to request or been granted a continuance in accordance with Section 1001.100(~~v#~~).
- f) Orders resulting from formal hearings are final administrative orders within the meaning of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

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Section 1001.220 Hearings; Notice; Location; Procedures; Record

- a) Notice of Suspension; Right to a Hearing. Any petitioner who receives a Notice of Suspension in a safety responsibility case may contest the suspension by submitting a written request for a hearing pursuant to Section 7-205 of the Code. Subsequent to certification of an uninsured motorist by the Department of Transportation as provided by statute, and upon a preliminary finding that a reasonable possibility of a civil judgement exists, the Secretary shall institute a Notice of Suspension which advises the petitioner of his/her right to a hearing in lieu of deposit of security. Any petitioner, by submitting a written request postmarked within 15 days after the mailing date of the Notice of Suspension, will be afforded a full, fair, and impartial hearing to contest the preliminary finding of the Secretary. [625 ILCS 5/7-205] Any request for hearing postmarked within 15 days after the mailing date of the Notice of Suspension will stay the effective date of the safety responsibility suspension pending the outcome of the hearing. Hearing requests received after the 15 day period will be granted; however, the suspension will not be stayed or removed pending the hearing. "Written request" means that the petitioner may send the Office a petition via facsimile, electronic transmission, or regular mail.
- b) Filing Fee
- 1) AEffective 15 October 2001, a petition for a hearing to contest a suspension will not be accepted for filing unless it is accompanied by a fee of \$50, as provided in Section 2-118 of the Illinois Vehicle Code. This filing fee must be submitted by each party who wishes to be made a petitioner in the proceeding, in the form of a money order, a cashier's or certified check, a check drawn on the account of an attorney of record or an attorney professional corporation of record in a hearing before the Department of Administrative Hearings, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.
 - 2) This filing fee will not be refunded to any petitioner if the petitioner withdraws from the hearing or defaults.
 - 3) In cases where a hearing is continued, any petitioner who has paid a filing fee will not be required to submit another filing fee.

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- 4) In cases where a petitioner withdraws, the petitioner will be required to submit a filing fee before another hearing will be scheduled.
- c) **Decisionmaking Factors; Burden of Proof.** The decision resulting from the hearing shall be based upon the following factors: whether the petitioner, as a motor vehicle owner or operator, has been involved, or whose vehicle has been involved, in a motor vehicle accident occurring within the State of Illinois and which has resulted in bodily injury or death of any person or in which damage to the property of any one person exceeds the amount provided by statute; whether petitioner is exempt from the Safety Responsibility Law; and whether there exists a reasonable possibility of a civil judgment against the petitioner. The petitioner shall bear the burden of proof throughout the proceedings. The standard of proof shall be a preponderance of the evidence.
 - d) **Issuance of Notice of Hearing.** The hearing shall be initiated by the issuance of a Notice of Hearing by the Secretary. The Notice shall be served upon the petitioner, as the person against whom action may be taken by the Secretary, any interested party, and any attorney of record. The Notice of Hearing may be sent by electronic transmission, if the parties agree to this format.
 - e) **Notice of Hearing – Content.** The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:
 - 1) The name of the petitioner;
 - 2) The name and address of any interested party;
 - 3) The date, time, place, and nature of the hearing;
 - 4) The matters to be addressed at the hearing;
 - ~~5) The name of the hearing officer;~~
 - ~~56)~~ The specific Sections of the Statutes involved;
 - ~~67)~~ The statutory authority pursuant to which the hearing is being conducted;
 - ~~78)~~ Notice to the petitioner that a failure to appear will result in the denial of any relief requested and that at any rehearing granted under Section

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1001.260 the petitioner will be deemed to have waived the right to subpoena or cross-examine witnesses that testified at the original hearing.

- f) Location of Hearings; Notice of Change of Location. Hearings shall be conducted in the Counties of Cook, DeKalb, [Madison](#), Will, Sangamon, Kane, St. Clair, McDonough, and Jefferson and in such other locations as the Secretary shall from time to time designate. [The Secretary reserves the discretion to conduct these hearings by videoconferencing.](#) If the Secretary determines to abandon or change the location of hearings to a location or locations outside the counties specifically listed in this subsection, the Secretary shall publish a notice of the change, at least 20 days prior to the effective date of the change, in a local newspaper of general circulation in each county wherein a location is abandoned or to which a hearing location will be added or moved. The notice shall indicate the reasons for the determination and shall identify the new location proposed to serve the county, if known at the time of publication. The hearing site locations, and any change therein, shall also be posted on the Secretary of State website.
- g) Parties to a Hearing; Disqualification of Hearing Officer. Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in his behalf. Prior to the taking of evidence, a petitioner may request the disqualification of the hearing officer by making a motion for disqualification, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed. If the motion is granted, the case shall be transferred to another hearing officer for a same day hearing if possible. If not possible, a new hearing date will be established and another hearing officer shall be assigned by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any petitioner, to examine witnesses, and to rule upon the admissibility of testimony and evidence.
- h) Petitioner's Rights. Each petitioner to the hearing and the Secretary of State shall have the following rights:
- 1) The right to the issuance of subpoenas upon written request directed to the hearing officer at least 10 business days prior to the hearing;
 - 2) The right to call and examine witnesses;

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- 3) The right to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered on direct examination;
 - 4) The right to introduce exhibits; and
 - 5) The right to obtain in advance, upon written request, copies of all related police reports not designated confidential by State law. Requests must be submitted at least 10 business days prior to the hearing date to be considered. The petitioners may request copies of the related police reports at the hearing if the need for the copies could not be foreseen before the hearing, or the need for them arose because of the issues or allegations adduced at the hearing.
- i) Right to Counsel; Attorneys Must Be Licensed; 711 Students. The petitioner shall have the right to appear in person and be heard through an attorney at law licensed to practice in the State of Illinois or any law student licensed under Supreme Court Rule 711. If the petitioner does not testify on his/her own behalf, he/she may be called by the representative of the Secretary and examined as if under cross-examination.
- 1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard in a specific hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, by special leave of the Director of the Department or the Director's designee, pursuant to an Order pro hac vice, as authorized by Supreme Court Rule 707 [ILCS S. Ct. Rule 707] and the Illinois Rules of Professional Conduct Rule 5.5, effective January 1, 2010~~Attorneys admitted to practice in states other than the State of Illinois may appear by special leave of the hearing officer appointed to conduct the hearing, upon the attorney's verbal representation or written documentation as to the attorney's admittance.~~
 - 2) A natural person may appear and be heard in his/her own behalf.
 - 3) A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.
 - 4) Only an attorney mentioned above properly licensed shall represent

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anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

- j) Recording of Proceedings; Obtaining a Copy of the Record.
- 1) The proceedings shall be recorded by a suitable electronic method. The petitioner may furnish, at his/her own expense, a certified shorthand reporter. All records taken shall be properly cataloged and preserved by the Secretary for a period of at least 45 days from the entry of the hearing officer's order. A copy of the electronically recorded~~Oral~~ proceedings,~~or any part thereof,~~ shall be available~~transcribed~~ upon the request of the petitioner, any party, or his/her counsel upon advance payment of \$25 by~~at~~ the requesting ~~party~~party's personal expense, to cover the cost of making a copy of the recording plus mailing~~as specified in 2 Ill. Adm. Code 551.150, or the cost of an audio tape, plus mailing.~~
 - 2) Persons who are not a party to a proceeding may obtain a copy of the file, a document in the file, or a transcript of the proceeding by filing with the Department a request for the record pursuant to, and subject to the restrictions and exemptions in, the Freedom of Information Act [5 ILCS 140].
- k) Record of a Hearing. The record of a hearing held pursuant to this Section shall include, but not be limited to, the following:
- 1) The notices, pleadings, and responses to pleadings;
 - 2) The motions and rulings on motions;
 - 3) The matters officially noticed;
 - 4) The offers of proof made and objections to and rulings on those offers;
 - 5) The opinions, recommendations, or reports by the hearing officer, Secretary, or Department; and
 - 6) An electronic or digital recording~~A transcript~~ of the proceedings.

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- l) Interpreters; ~~Hearing Impaired~~. The Secretary will provide, upon prior written request, an interpreter for hearing impaired petitioners and interested parties who wish to testify. However, it is the responsibility of the petitioner or interested parties to provide a language interpreter.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section 1001.300 Applicability

- a) Lower Level Hearing; No Right to Appeal. This Subpart applies to informal hearings conducted by driver license hearing officers in the Department of Administrative Hearings of the Office of the Secretary of State in various locations throughout Illinois. They are a lower level hearing than the formal hearings conducted pursuant to Subpart A of this Part. There is no appeal from an informal hearing to a formal hearing because the formal hearing is a de novo proceeding. These informal hearings are limited to the consideration of and the making of recommendations on driver's license suspension and revocation matters and the recommendations may include any recommendation able to be made by a formal hearing, except as provided in subsection (b).
- b) Petitions Not Subject of Informal Hearings. An informal hearing shall not, however, consider petitions for driving relief in the following cases:
 - 1) the current suspension, revocation, or cancellation resulted from an offense, the facts of which involved a death, except for petitions for restricted driving permits after a revocation entered pursuant to Section 6-205(a)16 of the Code;
 - 2) for the rescission or modification of suspensions or revocations;
 - 3) the petitioner's driving privileges are currently revoked in Illinois for driving under the influence or aggravated driving under the influence pursuant to Section 11-501 of the Code or similar provisions of local ordinances or out-of-state statutes, and the petitioner has been convicted of another revocation for driving under the influence or aggravated driving under the influence pursuant to Section 11-501 of the Code or similar

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provisions of local ordinances or out-of-state statutes, and/or has been suspended~~any suspensions~~ pursuant to Section 11-501.1 or 11-501.6 of the Code or similar provisions of local ordinances or out-of-state statutes, arising from separate incidents, on a previous occasion;

- 4) an open revocation entered pursuant to Section 6-206(a)1 of the Code and 92 Ill. Adm. Code 1040.35;
 - 5) for a restricted driving permit after an extension or reimposition of a summary suspension entered pursuant to Section 6-206.1(1) of the Code;
 - 6) an out-of-state petition for reinstatement, made pursuant to Section 1001.100(a).
- c) Jurisdiction of Informal Hearings – Renewal of Permits. An informal hearing may, however, consider, after initial approval or issuance at a formal hearing, a petition for the continuation/renewal of restricted driving permits in the above cases if:
- 1) a restricted driving permit was granted from a formal hearing;
 - 2) a permit is still in effect or has expired no more than 30 days from the date of the informal hearing;
 - 3) the petitioner has not been subsequently convicted or received court supervision for any of the following offenses: driving under the influence or aggravated driving under the influence, leaving the scene of a fatal or personal injury collision, drag racing, reckless driving, driving while suspended or revoked, fleeing or attempting to elude a peace officer, or any of the felony offenses listed in Section 6-206(a)28 of the Code;
 - 4) the petitioner has driven on the current permit for at least 75% of the length of the permit; and
 - 5) the petitioner is now eligible for and requests the continuation of the previously issued permits.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 1001.320 Right to Representation

Any petitioner may represent himself or herself at an informal hearing, or may be represented by an attorney licensed to practice law in Illinois or in another state who is specifically permitted, ~~either~~ by the Director of the Department pursuant to Supreme Court Rule 707 and the Illinois Rules of Professional Conduct Rule 5.5, effective January 1, 2010, ~~or a judge of the circuit court of the county in which the hearing is conducted, pursuant to an Order pro hac vice,~~ to represent a petitioner at the informal hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, or any law student licensed under Supreme Court Rule 711. A petitioner may be assisted by a non-lawyer if the petitioner is representing himself or herself.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.340 Location of Hearings

- a) There shall be at least one hearing officer in each region.
- b) The headquarters of each region shall be in the facility located in that city, and a work location may also be established by the supervisor for one or more hearing officers within a region.
- c) The regions and headquarters shall be designated by the Secretary or the Director of the Department and announcements of the location and days and hours of service shall be posted at driver's license stations throughout the State and on the Secretary of State website (cyberdriveillinois.com). This information will be updated quarterly.
- d) ~~Out of state Petitioners~~
 - 1) ~~Petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois may make, except as provided in subsection (d)(2), written application in lieu of returning to Illinois for an informal hearing. The petitioner shall be deemed to have waived the right to appear in person. Out of state petitioners must initially submit evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves~~

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~~the discretion to reject out of state petitions which fail to provide this evidence or establish residency. The Department also reserves the discretion to reject an out of state petition if there is evidence that the petitioner is maintaining substantial contact with the State of Illinois and is capable of attending a hearing in person in a timely manner.~~

- ~~2) Out of state petitioners who reside within 30 miles of the Illinois border shall be required to attend a hearing in person, unless the petitioner shows good cause for not being able to attend in person. "Good cause" is shown when it is demonstrated by a written statement that the petitioner cannot attend a hearing in person due to economic, physical, or medical reasons. Mere inconvenience does not constitute good cause.~~
- ~~3) Except as provided in Sections 1001.430(k) and 1001.440(o), out of state petitioners must submit at a minimum all documentation and information required by Subpart D, as well as a sworn Out Of State Petitioner's Affidavit that provides the information otherwise required by the Secretary at an informal hearing.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcohol, from any source, or other drugs.

"Abstract" means a summary of a driver's record of traffic law violations, accidents, suspensions, revocations, cancellations, address and personal information of the driver, as contained in the files of the Office of the Secretary of State.

"Accredited educational course" means any class or course of instruction offered by an accredited educational institution that is either vocational in nature or is part of the matriculation process in receiving an academic degree, diploma, or certificate. It shall also include attendance at any required instructional class in an

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apprentice program and at functions and activities required to maintain the student's status as a currently enrolled student or to fulfill the requirements of a scholarship.

"Accredited educational institution" means any school or institution, whether public or private, that offers classes or courses of instruction, and that is reviewed and approved or granted a waiver of approval by the controlling State agency.

"Alcohol" means ethanol, commonly referred to as ethyl alcohol.

"Alcohol and drug evaluation (Investigative)" means a printed typewritten report that which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(D) of this Subpart. The evaluation must be completed on a form prescribed by the Department. This evaluation will be conducted as required pursuant to Sections 1001.420(1) and 1001.430(d) of this Subpart, when:

the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 540 years (as of the date of the hearing) for which the petitioner/respondent did not or was not required to submit to the Secretary an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years (as of the date of the hearing), or the petitioner has a conviction for an alcohol/drug-related criminal offense within the last 5 years (as of the date of the hearing) record, as defined in this Section, or the facts of the current loss of driving privileges indicate the use or potential use of alcoholic beverages or other drugs at a time when the offender was under the age of 21 years and within the last 5 years (as of the date of the hearing); or

there is evidence that the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders the person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

"Alcohol and drug evaluation (Out-of-state)" means a printed typewritten report that which conforms to standards established by the Department as specified in

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Section 1001.440(a)(6)(C) ~~of this Subpart.~~

"Alcohol and drug evaluation (Uniform Report)" means a ~~printed typewritten~~ report ~~that which~~ conforms to standards established by the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse (DASA). (See 77 Ill. Adm. Code 2060.503.) The evaluation must be completed on a form prescribed by DASA. The evaluation must be signed and dated by both the evaluator and the petitioner.

"Alcohol and drug evaluation (Update)" means a ~~printed typewritten~~ report ~~that which~~ updates a Uniform Report or Investigative Evaluation and conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(B) ~~of this Subpart.~~ The evaluation must be completed on a form prescribed by the Department. The update evaluation must be completed by a program in accordance with the provisions of Section 1001.440(a)(6)(A) ~~of this Subpart.~~

"Alcohol and drug related driver risk education course" means an educational program concerning the effects of alcohol/drugs on drivers of motor vehicles, also referred to as a DUI driver remedial program, ~~that which~~ conforms to the standards established by DASA. (See 77 Ill. Adm. Code 2060.505.)

"Alcohol/drug-related criminal ~~conviction record~~" means a petitioner's or respondent's record of being found guilty of violating the Cannabis Control Act [720 ILCS 550], ~~or the Illinois Controlled Substances Act [720 ILCS 570], or~~ Methamphetamine Control and Community Protection Act [770 ILCS 646], or being found guilty of the commission of a misdemeanor or felony offense while under the influence of, or impaired by the use of, alcohol or other drugs, or the facts of the offense indicate that it was committed for the purpose of obtaining alcohol or other drugs.

"Alcohol setpoint" means the minimum or nominal BrAC (0.025) at which a device is set to lock a vehicle's ignition.

"BAC" means blood alcohol concentration as determined by a chemical test administered by police authorities or medical personnel to measure the concentration of alcohol in the bloodstream.

"BAIID permittee " means a BAIID petitioner who has been issued an RDP as a

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result of a hearing.

"BAIID multiple offender " means anyone who is required to install an interlock device on all vehicles he or she owns, pursuant to Sections 6-205(h) ~~and 11-501(i)~~ of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved and who, therefore, previously fulfilled the requirements of Sections 6-205(h) and 11-501(i), is not a BAIID multiple offender.

"BAIID petitioner" means anyone who, if issued restricted driving permits, may not operate a motor vehicle unless it has been equipped with an interlock device as defined in this Section, as required by ~~the IVC or these rules Sections 6-205(e) and 6-206(e)3 of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved, is not a BAIID petitioner.~~

"BAIID provider" means an entity authorized by the Secretary to contract with BAIID permittees and MDDP offenders and distribute, supply, install, maintain and monitor BAIID devices. A "BAIID provider" may be an authorized agent or representative of a manufacturer or an independent entity. "BAIID provider" may be synonymous with vendor, supplier, manufacturer, or installer.

"Breath Alcohol Ignition Interlock ~~Device~~ Devices or "(BAIID)" means a mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of a vehicle. If the unit detects a BrAC test result below the alcohol setpoint, the unit will allow the vehicle ignition switch to start the engine. If the unit detects a BrAC test result above the alcohol setpoint, the vehicle will be prohibited from starting. The unit or combination of units, to be approved by the Secretary, shall measure breath alcohol concentrations by breath analysis and shall include both simple and complex units.

"BrAC" means the w/v breath alcohol concentration.

"BUI" means boating under the influence, as defined in the Boat Registration and Safety Act [625 ILCS 45/5-1 through 5-21].

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"Certified controlled reference sample~~Controlled Reference Sample~~" means a suitable reference of known ethyl alcohol concentration.

"Chemical test~~Test~~" means the chemical analyses of a person's blood, urine, breath or other bodily substance performed according to the standards promulgated by the Department of State Police. (See 20 Ill. Adm. Code 1286.)

"Circumvention" means an overt, conscious effort to bypass the BAIID or any other act intended to start the vehicle without first taking and passing a breath test.

"Clinical impression~~Impression~~" means a qualified treatment professional's (see Section 1001.440(b)(2) through (b)(6)) opinion regarding the effectiveness of substance abuse treatment provided to an individual and the likelihood of future alcohol/drug-related problems. This constitutes the treatment professional's most reasonable clinical judgment based on direct involvement with the individual throughout the course of treatment. It should not be interpreted as a definitive statement regarding the likelihood of future alcohol/drug-related problems.

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

"DASA" means the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse.

"Day care provider, licensed/unlicensed – children" means a licensed "facility for childcare", "child care institution", or "day care center", as defined and provided for in the Child Care Act of 1969 [225 ILCS 10] and the rules of the Department of Children and Family Services at 89 Ill. Adm. Code 406. It also includes, for purposes of this Subpart, a private individual or family member who, regardless of whether payment is made for the service, provides day care services as described in the Child Care Act of 1969 and 89 Ill. Adm. Code 406.

"Day care provider, licensed/unlicensed – elderly or disabled person" means a licensed "adult day health center" and other community based services for elderly and disabled persons, as defined and provided for in the All-Inclusive Care of the Elderly Act [320 ILCS 40], the Older Adult Services Act [320 ILCS 42], the Community Senior Services and Resources Act [320 ILCS 60], the Family Caregiver Act [320 ILCS 65], and Article III of the Illinois Public Aid Code [305 ILCS 5]. It also includes, for purposes of this Subpart, a private individual or

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family member who, regardless of whether payment is made for the service, provides day care services as described in those statutes and the rules of the Departments of Healthcare and Family Services and Aging.

"Decertification" means the removal or cancellation by the Secretary of the authorization for a BAIID provider to use, distribute or provide a particular type of BAIID to BAIID permittees, MDDP offenders and BAIID multiple offenders.

"Department" means the Department of Administrative Hearings of the Office of the Secretary of State.

"Designated driver remedial or rehabilitative program" means an alcohol or drug evaluation, an alcohol or drug-related driver risk education course, an alcohol or drug treatment program, the Office driver improvement program, or any similar program intended to diagnose and change a petitioner's driving problem as evidenced by the petitioner's abstract. (See Sections 6-205(c) and 6-206(c)3 of the Code.)

"Device" means a breath alcohol ignition interlock device approved by the Secretary.

"Director" means the Director or Acting Director of the Department.

"Disabled person" means any person who is, and who is expected to indefinitely continue to be, subject to any of the 5 types of disabilities listed in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] or who is disabled as defined in Article III of the Illinois Public Aid Code. It also means any person whose disability is verified by the person's treating physician.

~~"Disqualification" means the removal or cancellation by the Secretary of the authorization for a BAIID provider to sell, rent, distribute, supply, install, service, repair or monitor BAIIDs for BAIID permittees, MDDP offenders and BAIID multiple offenders.~~

"Documentation of ~~abstinence~~Abstinence" means testimony and documentation, in the form of affidavits, letters, etc., from individuals who have regular, frequent contacts with the petitioner (e.g., spouse, significant other, employer, co-workers, roommates) verifying that to the best of their knowledge the petitioner has been abstinent from alcohol/drugs for a specified period of time, according to the

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standards stated in Section 1001.440(e).

"Driver License Compact" is an agreement among signatory states that deals with the problems of: issuing drivers' licenses to people who move from one signatory state to another; and drivers who are licensed in one signatory state and convicted of traffic offenses in other such states. The Compact has been codified in Illinois and is found in Chapter 6, Article VII of the Code.

"DUI" means driving under the influence.

"DUI disposition" means any conviction or supervision for DUI, BUI or SUI, or any conviction for reckless homicide when alcohol and/or drugs is recited as an element of the offense or other credible evidence indicates that the petitioner's/respondent's conduct causing death involved the use of alcohol or other drugs, or reckless driving reduced from DUI, or any statutory summary suspension or implied consent suspension, except summary suspensions entered pursuant to Section 11-501.8 of the Code (zero tolerance suspensions). This definition applies to offenses that are committed in other states as well as in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois criminal or driving record.

"Elderly person" means a person age 60 or over who does not possess driving privileges or who, due to age or infirmity, is not able to exercise those driving privileges.

"Employ" or "employed" or "employment" shall all relate to activity for compensation to support oneself or one's dependents as well as activities ordered by a court in connection with a sentence that includes the completion of a term of community service. Employment need not be the sole or primary means of support for the petitioner or his/her dependents.

"Evaluator" means any person licensed to conduct an alcohol and drug evaluation by DASA. (See 77 Ill. Adm. Code 2060.201.) A treatment provider may be considered an evaluator for the purpose of completing an updateupdated evaluation in accordance with Section 1001.440(a)(6)(A) ~~of this Subpart~~.

"Failure to successfully complete a running retest" means any time the BAID Permittee registers a BrAC reading of 0.05 or more on a running retest or fails to perform a running retest that has been requested.

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"Fee" means the statutory fees for restricted driving permits or reinstatement of driving privileges, as specified in IVC Section 6-118 ~~of the Code~~.

"Hearing" means informal hearings and/or formal hearings.

"High Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner with either:

symptoms of substance dependence (regardless of driving record), referred to in this Part as High Risk Dependent. This classification shall be assigned to a petitioner who has experienced the required number of symptoms within any 12 month period, as defined by the Diagnostic and Statistical Manual of Mental Disorders, and regardless of whether the petitioner has attained a sustained period of remission/abstinence at the time that the evaluation is conducted; and/or

within the 10 year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, BUI or SUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents, referred to in this Part as High Risk Nondependent. (See 77 Ill. Adm. Code 2060.503(g).) This definition applies to offenses that are committed in other states as well as in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois driving record.

"Immediate family" means a member of the petitioner's household, the petitioner's parents, grandparents, children, grandchildren and stepchildren who live with the petitioner, and significant other.

"Initial Monitor Report" means the monitor report obtained or required to be obtained within the first 30 days after initial installation of the device.

"Installer" means an individual trained by a BAIID provider or manufacturer to install, repair, maintain, or monitor a BAIID and employed by an authorized BAIID provider, service center, vendor or manufacturer. "Installer" is synonymous with an authorized entity providing installation, repair, or monitoring services to BAIID permittees and MDDP offenders through those trained

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individuals.

~~"JDP" means a Judicial Driving Permit, as defined by Section 6-206.1 of the Code, which may be ordered by the court of venue to "first offenders" as defined in Section 11-501.1 of the Code.~~

"Lockout" means the device must prevent engine ignition by a virtual lock with 90% certainty or near absolute lock at 99.5% certainty.

"Manufacturer" means the maker of a BAIID or its authorized representative.

"MDDP" means a monitoring device driving permit, issued pursuant to Section 6-206.1 of the IVC. A MDDP is not a restricted driving permit.

"MDDP holder" means an MDDP offender who has been issued an MDDP by the Office of the Secretary of State.

"MDDP offender" means a person who is a first offender as defined in Sections 11-500 and 6-206.1 of the IVC.

"Medical cannabis" means the prescribed use or consumption of cannabis as defined and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Medical or physical BAIID modification" means a demonstrated physical or medical condition documented in writing by a physician that consistently interferes with the normal operation of the BAIID by the BAIID permittee or MDDP offender for which the Department may authorize a modification of the BAIID or its programming to accommodate the condition without violating the BAIID rules and statutory requirements.

"Medical or Physical BAIID Waiver" means a demonstrated physical or medical condition, documented in writing by a physician, that consistently interferes with or prevents the normal operation of the BAIID by the BAIID permittee or MDDP offender for which the Department may authorize a waiver of the BAIID.

"Minimal Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

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no prior conviction or court ordered supervisions for DUI, [BUI or SUI](#), no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of less than .15 as a result of the most current arrest for DUI; and

no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

[This definition applies to offenses that are committed in other states as well as in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois criminal or driving record.](#)

"Moderate Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

no prior conviction or court ordered supervisions for DUI, [BUI or SUI](#), and no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and

no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

[This definition applies to offenses that are committed in other states as well as in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois criminal or driving record.](#)

"Monitor report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC reading, and any evidence of tampering or circumvention of the device.

"National Driver Register" means a central index, maintained by the U.S.

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Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

"Near-alcoholic beverage" means a beverage with an alcohol content of .05 percent or less.

"Office" means the Office of the Secretary of State and not any particular department address or location.

"Permanent lockout" means that feature of the device that prevents a vehicle with the device installed from starting after the lapse of the 5 days (see 92 Ill. Adm. Code 1001.442(e)(7)) and requires servicing by the manufacturer/installer of the device to make the vehicle operable for failure to take the vehicle with the device to the manufacturer or installer for any required monitor report or for any failure to send the device to the manufacturer within 5 days after any service or inspection notification.

"Petitioner" is the party who seeks or applies for relief from the Office from the suspension, revocation, cancellation, or denial of his/her driving privileges pursuant to the provisions of the Illinois Vehicle Code.

"Problem Driver Pointer System" or "PDPS" is a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license. See Secretary of State rules at 92 Ill. Adm. Code 1040.70.

"RDP" means a restricted driving permit, as defined by Section 1-173.1 of the Code and limited as specified in IVC Sections 6-205(c) and 6-206(c)~~3 of the Code.~~

"Reinstatement" means the restoration of driving privileges entitling the petitioner to apply for a new driver's license in accordance with the requirements of the Illinois Vehicle Code and this Chapter.

"Respondent" means a person against whom a complaint or petition is filed, or who, by reason of interest in the subject matter of a petition or application or the relief sought through that action, is made a respondent or to whom an order or complaint is directed by the department initiating a proceeding.

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"Running retest" means that feature of the device that requires the driver to take additional BrAC tests after the initial test to start the vehicle.

"Secretary" means the Illinois Secretary of State or his designee.

"Service or inspection notification" means that feature of the device that advises or notifies the BAIID permittee or MDDP offender to either take the vehicle with the device installed to the BAIID provider or installer or send the device to the BAIID provider or installer for the required inspection and the monitor report.

"Service center" means an authorized dealer, distributor, supplier, or other business engaged in the installation of BAIIDs and is synonymous with installer.

"Show cause hearing" means that the Secretary has good cause to believe that a driver may be a danger to public safety and welfare for violations of IVC Sections 6-103, 6-108, 6-207 and/or 6-201(a). The Department will send notice to the driver, who then has an opportunity to show cause why his/her driving privileges should not be cancelled at a formal hearing conducted pursuant to IVC Section 2-118.

"Significant other" means any person with whom an individual is experiencing an ongoing, close association that represents a meaningful part of that individual's established life style (e.g., spouse, other family member, employer, co-worker, clergy member, roommate).

"Significant Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

one prior conviction or court ordered supervision for DUI, BUI or SUI, one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; and/or

a blood alcohol concentration (BAC) of .20 or higher as a result of the most current arrest for DUI; and/or

other symptoms of substance abuse. (See 77 Ill. Adm. Code 2060.503(g).)

This definition applies to offenses that are committed in other states as well as

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in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois criminal or driving record.

"Stressed" means conditions such as temperature extremes, vibration, and power variability.

"SUI" means snowmobiling under the influence, as defined in the Snowmobile Registration and Safety Act, ~~found at~~ [625 ILCS 40/5-1 through 5-7.6].

"Support/recovery program" means specific activities ~~that~~^{which} a recovering alcoholic/chemically dependent person has incorporated into his/her life style to help support his/her continued abstinence from alcohol and other drugs. This may include, but is not limited to, participating in a self-help program (Alcoholics Anonymous, Narcotics Anonymous, etc.) or a professional support group, or regularly and frequently engaging in religious or other activities which have a distinct and positive effect on an individual's continued abstinence. Any program and its relationship to the individual's ability to remain abstinent must be clearly identified and verified by proper documentation independent from an individual's self report (such as indicated in Section 1001.440(e) through (i) ~~of this Part~~). The hearing officer shall determine the viability of the petitioner's program as a means of supporting continued abstinence, taking into account all the evidence brought forward at the hearing, as well as considering whether the program is substantially consistent with the following criteria:

The program encourages life style change ~~that~~^{which} involves the replacement of substance using activity with non-substance using activity; a strong focus of the program is to provide ongoing assistance in identifying and resolving substance dependency-related issues that may jeopardize an individual's continued recovery;

The program encourages positive individual values of responsibility and honesty, as well as less self-centered thinking;

The program has demonstrated a durability and stability over time that reflects its usefulness in supporting long-term recovery.

"Tampering" means an overt, conscious attempt to disable or disconnect the interlock device.

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"Treatment Needs Assessment" means an assessment of a petitioner's current need for alcohol/drug treatment, counseling, or other intervention services or rehabilitative activity, composed by a licensed treatment provider.

"24 ~~hour~~Hour~~Hour~~ lockout" means that feature of the device that causes a vehicle with the device installed to become inoperable for a period of 24 hours any time the device registers 3 BrAC readings of 0.05 or more within a 30 minute period.

"Undue hardship as it relates to court ordered activities" means an extreme difficulty in getting to and from a location where a petitioner is participating in or fulfilling the requirements of conditional discharge, probation or parole, such as, but not limited to, community service, support groups, and treatment for illnesses or disorders. This does not include getting to and from primary treatment for alcohol/drug abuse. It is more than mere inconvenience to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to day care for children, an elderly or disabled person" means an extreme difficulty in getting a member of the petitioner's immediate family to and from a day care provider or a pre-school. It is more than mere inconvenience to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to educational pursuits" means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It also means an extreme difficulty in getting a member of the petitioner's immediate family to and from pre-school, elementary school or high school, or their equivalent. "Educational pursuits" include activities and events conducted, and services provided, by the school district, immediately before and/or after the school day begins, functions and activities required to maintain the student's status as a currently enrolled student, and functions and activities required to fulfill the requirements of a scholarship. It is more than mere inconvenience to the petitioner, and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

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"Undue hardship as it relates to employment" means, as used in the context of Sections 6-205(c) and 6-206(c)3 of the Code, an extreme difficulty in regard to getting to or from a petitioner's place of employment or to operate on a route during employment; e.g., as delivery person, because of the suspension, revocation, or cancellation of the petitioner's driving privileges. It is more than mere inconvenience on the petitioner and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. [The impact on the family unit is a valid consideration.](#) An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to necessary medical care" means an extreme difficulty in regard to getting to and from a location where petitioner or a member of his/her immediate family receives examinations, therapy or treatment, etc., prescribed or recommended by a licensed physical or mental health care provider. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. [The impact on the family unit is a valid consideration.](#) An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Undue hardship as it relates to support/recovery program" means an extreme difficulty in regard to getting to and from a location where a petitioner is participating in an ongoing support program. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. [The impact on the family unit is a valid consideration.](#) An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Unsuccessful attempt to start the vehicle" means anytime the BAIID permittee or MDDP offender registers a BrAC reading of 0.025 or more on the device when attempting to start the vehicle.

"Vehicle", for purposes of the Breath Alcohol Ignition Interlock Device Program, means every apparatus in, upon or by which any person or property is or may be transported or drawn upon a highway and that is self-propelled, except for apparatuses moved solely by human power, motorized wheelchairs, motorcycles, motor driven cycles and vehicles that require a commercial driver's license to operate.

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"Vendor" means a retail or wholesale supplier of a device, and may include a service center.

"W/V" means weight of alcohol in the volume of breath based upon grams of alcohol per 210 liters of breath.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits

- a) **Burden of Proof.** In every petition for driving relief, the petitioner must prove, by clear and convincing evidence, that he/she will not endanger the public safety and welfare.~~Petitioners who are not eligible for reinstatement of driving privileges at the time of their hearing must prove that there is no reasonable alternative means of transportation available, that they will not endanger the public safety and welfare, and that an undue hardship will result if they are not issued a restricted driving permit (RDP). The Secretary of State does not weigh the nature or extent of a petitioner's hardship against the risk he/she poses to the public safety and welfare. Rather, the petitioner must first carry his/her burden of proving that he/she will not endanger the public safety and welfare in order for the Secretary of State to consider whether the petitioner has an undue hardship.~~
- 1) Burden of Proof; Not Eligible for Reinstatement – Hardship Required.
Petitioners who are not eligible for reinstatement of driving privileges or whose driving privileges are suspended at the time of their hearing must prove, by clear and convincing evidence, that there is no reasonable alternative means of transportation available, that they will not endanger the public safety and welfare, and that an undue hardship will result if they are not issued an RDP. The Secretary of State does not weigh the nature or extent of a petitioner's hardship against the risk he/she poses to the public safety and welfare. Rather, the petitioner must first carry the burden of proving that he/she will not endanger the public safety and welfare in order for the Secretary of State to consider whether the petitioner has an undue hardship.
- 2) Burden of Proof; Eligible for Reinstatement – Hardship Not Required.
The Secretary reserves the discretion to issue an RDP to petitioners who are eligible for reinstatement at the time of their hearing, when warranted

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by the facts and circumstances reflected in the evidence submitted at the petitioner's hearing, and subject to the terms and conditions of Sections 1001.430 and 1001.440.

- b) RDP Classifications
- 1) Employment. A petitioner for an employment related RDP must be currently employed, or present a verifiable commitment for employment, and the employment must be verified upon forms prescribed by the Department. If the petitioner is self-employed, evidence of self-employment can include, but is not limited to, stationery, business card, official receipt, check, State or Federal tax returns or letters from business associates.
 - 2) Medical or Treatment. A petitioner for an RDP for medical or treatment purposes must provide verifiable documentation from the licensed physical or mental health care provider involved that the petitioner or a member of his/her immediate family (who is unable to operate a motor vehicle) must receive or is receiving services on a regularly scheduled basis.
 - 3) Court Ordered Activities and Community Service. A petitioner for an RDP for court ordered activities or community service must provide certified court documents detailing the terms of the service or activity, including but not limited to the place or places the service or activity is performed, the hours during which the service or activity is to be performed and the nature of the service or activity. This does not include getting to and from primary treatment for alcohol/drug abuse. The attendance or participation in treatment or support meetings must be verified and documented in the manner specified in this subsection (b)(3).
 - 4) Educational. A petitioner for an educational RDP must be currently enrolled, or intend to enroll for the next available session, in an accredited educational institution for the purpose of taking an accredited educational course or courses, to attend or participate in functions and activities required to maintain the student's status as a currently enrolled student, or to fulfill the requirements of a scholarship. A petitioner who is applying for an educational RDP to enable the petitioner to drive members of his or her immediate family to school or other education pursuits, as defined in

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this subsection (b)(4), must provide evidence that the members of the immediate family are currently enrolled, or will be enrolled for the next available session, in an accredited pre-school, elementary school or high school, or their equivalent. Prior to the issuance of any educational RDP, the petitioner must submit verification by the institution of his or her, or the immediate family member's, enrollment from the institution. The verification shall be on a form provided by the Secretary of State.

- 5) Support/Recovery-
 - A) A petitioner for a support/recovery program RDP must provide verifiable documentation, from members of the group or program, that he/she has been attending meetings on a regular basis.
 - B) A petitioner who wishes to begin or resume participation in a support/recovery program, but who resides alone or in a household in which there is no other licensed driver and/or resides in a remote location in or near a community in which public transportation is not available, will be considered for a support/recovery program RDP if the petitioner proves that he/she has been abstinent from all alcohol and drugs for a minimum of 12 months and has satisfied the other provisions of this Subpart.
- 6) Day Care. A petitioner who requests an RDP for day care purposes must identify the children or other person who is to receive the day care services, specify the nature of the services, and provide verifiable documentation from the day care provider that it is providing day care services to a member of the petitioner's immediate family. The verification shall be on a form provided by the Secretary of State. A person's disability must be verified by providing the Department with a copy of the person's Illinois Disabled Person Identification Card. An elderly person's age must be verified by providing the Department with a copy of the person's Illinois Identification Card, Social Security Card, birth record, or some other, credible proof of age. The petitioner must also be able to verify the reason why the elderly person is not able to drive himself or herself.
- 76) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or

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aggravated driving under the influence that involved a fatality must submit, with the petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for the issuance of a restricted driving permit pursuant to IVC Sections 6-205(c) and 6-206(c)3-of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

8) The verifications and documentation required by this Section need not be provided at the time of the hearing. It is, however, strongly encouraged and it is the petitioner's responsibility to provide detailed contact information when applicable. Furthermore, the failure of the petitioner to provide verification or documentation at the time of the hearing is not a sufficient basis, in and of itself, to deny driving relief.

- c) Jurisdiction/Eligibility. An RDP may be granted only after suspension, revocation, or cancellation for the offenses listed in IVC Sections 6-205, 6-206, 6-303, 6-201(a)5 as it relates to 6-103.4, 11-501.1, 11-501.6 and 11-501.8-of the Code. Petitioners who are eligible to apply for an MDDPa-JDP are not eligible for and will not be considered for an RDP, except as provided in Section 6-206.1(l) or this Part.
- d) Undue Hardship – Burden of Proof and Types. If not yet eligible for reinstatement, a-A petitioner must prove by clear and convincing evidence that an undue hardship is currently being suffered as a result of the inability to legally operate a motor vehicle. Mere inconvenience to the petitioner or family and friends is not undue hardship. The petitioner should produce clear and convincing evidence as to the unavailability of reasonable alternative means of transportation, as defined in Section 1001.410, such as but not limited to: walking, mass transit, car pools, or being driven; how the petitioner is currently getting to his/her destination; whether driving is required in the course of employment; the distance between the petitioner's residence and his/her destination; and similar factors relating to employment, necessary medical care, support/recovery program

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meetings, court ordered activity and community service, ~~and/or~~ educational pursuits, and/or day care services.

- 1) Appropriate limits will be established for necessary on-the-job driving. The days, hours, and mileage limits will not exceed those absolutely necessary for the accomplishment of the petitioner's primary employment and shall be limited to a maximum of 12 hours per day and 6 days per week unless the request for increased limits is substantially documented, such as through an employer's verification of the petitioner's work schedule.
- 2) A support/recovery program RDP may include attendance at no more than 53 meetings per week.
- 3) An educational RDP will be subject to appropriate limits necessary to allow the petitioner or members of his or her immediate family to get to and from the subject institution/courses, schools, and educational pursuits. The days and hours will not exceed those absolutely necessary for that purpose and shall be limited to a maximum of 12 hours per day and 6 days per week. Additional parameters to consider in setting these limits shall include whether the petitioner or members of his or her immediate family ~~commute~~ commutes daily to the courses, schools and educational pursuits; is required to participate in clinical or student teaching programs in order to fulfill the requirements for a degree in his/her chosen field, to participate in functions and activities in order to maintain the student's status as a currently enrolled student, or to fulfill the requirements of a scholarship; or lives on or within a radius of one mile from the campus and only needs to drive to and from the institution on an infrequent basis (less than once per week) and is then able to get to the courses or the educational pursuits by other means of transportation. An educational permit will not be issued to allow a student to drive between his or her permanent residence and the educational institution on a weekend visit. The permit shall expire at the conclusion of the period for which it is granted.
- 4) A petition for a day care RDP will be considered to allow the petitioner to drive the child to a day care provider while the petitioner is engaged in other activities, regardless of whether the petitioner is issued an RDP to

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drive to and from those activities, and to enable the child to receive day care services.

- A) A petition for a day care RDP will be considered for noncustodial parents. Factors to be considered include, but are not limited to, how frequently the noncustodial parent requests that he or she be allowed to transport his or her children, the distance between the petitioner's residence and that of the custodial parent, the route to be traveled, which must be consistent and in conjunction with the other activities engaged in by the petitioner, and any other relevant evidence presented by the petitioner.
- B) In relation to day care for an elderly or disabled member of the petitioner's immediate family, a day care RDP will be considered to allow the petitioner to drive the person to a day care provider to receive identifiable services and to allow the petitioner to drive the person to a day care provider while the petitioner is engaged in other activities, regardless of whether the petitioner is issued an RDP to drive to and from those activities.
- e) Factors Considered. Factors which will be considered by the Department in determining the propriety of granting a petitioner an RDP include, but are not limited to: the petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permits were issued pursuant to the order of a circuit or appellate court following an administrative review action), the length of time that the petitioner actually drove or has been driving on permits, and driving record while on ~~those such~~ permits; record of performance while driving with an interlock device; driving history in another state if licensed previously; any arrest or implied consent suspension for boating or snowmobiling under the influence; petitioner's alcohol/drug-related criminal record as defined in Section 1001.410; whether the petitioner was incarcerated and successfully participated in any rehabilitative activity during his or her incarceration; whether the petitioner complied with the terms and conditions of probation or parole;~~reports of~~

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~~probation and/or parole officers;~~ and psychiatric reports ~~when~~where the evidence shows that ~~the~~ petitioner is suffering or has suffered from a mental disorder ~~that~~which might affect his/her ability to operate a motor vehicle in a safe and responsible manner.

- f) Public Safety and Welfare. Pursuant to IVC Sections 6-205(c) and 6-206(c)3-~~of the Code~~, the public welfare and safety must not be endangered by the issuance of an RDP. The evidence must show that the petitioner will operate a motor vehicle safely so as not to be a danger to himself or herself or others. The mere passage of time since the date of revocation is not sufficient evidence.
- g) Ticket Pending. An RDP will not be issued while any moving traffic offense is pending against a petitioner in any court of this or any other state, unless the pending citation or citations are also the only cause of the current loss of driving privileges.
- h) Referral to Remedial Program. A petitioner who is otherwise eligible for an RDP may be referred to a remedial or rehabilitative program prior to the permit's issuance, if his/her driving record warrants these measures. (See IVC Sections 6-205(c) and 6-206(c)3-~~of the Code~~.)
- i) Probationary RDP – Hardship Not Required. A petitioner otherwise eligible for reinstatement of driving privileges or termination of a cancellation under IVC Section 6-201(a)5, as it relates to IVC Section 6-103.4, may be issued an RDP for a probationary or trial period prior to (or rather than) reinstatement of driving privileges or termination of cancellation in cases where the petitioner has a poor driving record (evidenced by many minor violations or a few serious violations) or involvement as a driver in a traffic collision or collisions resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, or has been evaluated as Moderate Risk, Significant Risk or High Risk by an alcohol/drug evaluation. A petitioner is not required to prove an undue hardship in order to obtain a probationary RDP. The fact that a petitioner was not cited or arrested for, or convicted of, any traffic offense while driving on a probationary permit does not, in and of itself, entitle the petitioner to reinstatement.
- j) Out-of-state Resident; Eligibility. An RDP will be issued to an out-of-state resident only if he/she has a valid license to drive issued by the jurisdiction in which he/she resides; or is eligible to apply for a license or restricted permit to

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~~drive;~~ he/she has a verified employment, medical, ~~day care, court ordered activity, community service~~ or educational related need to drive in Illinois; and he/she complies with all other requirements of this Subpart.

- k) New Resident of Illinois: Eligibility. An RDP will not be issued to a new resident of Illinois if his/her driving privileges are suspended in another jurisdiction until such time as that suspension is terminated. An RDP may be issued to a new resident of Illinois if his/her driving privileges are revoked in another jurisdiction, pursuant to IVC Section 6-103.1 ~~of the Code~~, under the following conditions:
- 1) At least one year has expired from the date of the revocation yet the revocation period has not expired; and
 - 2) The petitioner meets all other applicable requirements of this Subpart.
- l) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.
- m) Investigative Evaluation Required.
- 1) A petitioner will be required to complete and submit an investigative alcohol and drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:
 - A) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last ~~5+0~~ years (as of the date of the hearing) for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years (as of the date of the hearing), or the petitioner has an alcohol/drug-related criminal conviction within the last 5 years

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(as of the date of the hearing) record, as defined in Section 1001.410, or the facts of the current loss of driving privileges indicate the use or potential use of alcoholic beverages or other drugs; or

- B) the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders that person incapable of safely driving a motor vehicle. (See IVC Section 6-103.4 ~~of the Code~~.)
- 2) The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver. Furthermore, if any rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) is recommended, then the petitioner must submit an updateupdated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated. An update evaluation is required even if the waiver is based upon the fact that the petitioner completed treatment prior to the date that the investigative evaluation was conducted.
- 3) The requirements of this subsection (m) also apply to an investigative evaluation that is submitted by a petitioner voluntarily.
- 4) The Department reserves the discretion to waive the requirements of an investigative evaluation if the current criminal offense is a misdemeanor and there is no other evidence of a current alcohol or drug problem.
- n) Examination. A petitioner whose driving privileges have been revoked or cancelled or whose driver's license has expired will be required to submit to a driver's license examination prior to the issuance of an RDP.
- o) Fourth Conviction. Pursuant to IVC Section 6-208(b)4, the Secretary of State will not issue a restricted driving permit to any person who has a fourth conviction and revocation for the offenses listed in that Section and who is, therefore, not eligible to apply for the reinstatement of driving privileges, if the arrest that resulted in the fourth conviction was made after the effective date of P.A. 90-738 (1/1/99).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.430 General Provisions for Reinstatement of Driving Privileges after

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Revocation

- a) Conviction is Dispositive. In all cases, a conviction in a court of law in Illinois or any other state is dispositive of the guilt of a petitioner of the offense that caused his/her revocation.
- b) Cause Removed. If revocation was for a cause that has been removed, such as the reversal of a conviction upon which revocation was entered, the petitioner must demonstrate that fact by clear and convincing evidence.
- c) Hardship Not Required; Factors Considered. A petitioner who is otherwise eligible for reinstatement of driving privileges at the time of his/her hearing is not required to prove an undue hardship as a condition of being, or in order to be, reinstated. The factors that will be considered by the Department in determining the propriety of reinstating a petitioner whose driving privileges have been revoked include but are not limited to: ~~the~~The petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permit was issued pursuant to the order of circuit or appellate court following an administrative review action), the length of time that the petitioner actually drove or has been driving on permits, and driving record while on any permit; record of performance while driving with an interlock device; driving history in another state if licensed previously; any arrest or implied consent suspension for boating or snowmobiling under the influence; petitioner's alcohol/drug-related criminal record, as defined in Section 1001.410; whether the petitioner was incarcerated and participated in any rehabilitative activity during his or her incarceration; whether the petitioner complied with the terms and conditions of probation or parole~~reports of probation and/or parole officers~~; and psychiatric reports in which~~where~~ the evidence shows that petitioner is suffering or has suffered from a psychiatric disorder that might affect his/her ability to operate a motor vehicle in a safe and responsible manner. The fact that a petitioner was not cited or arrested for, or convicted of, any traffic offense while driving on a probationary permit does not, in and of itself, entitle the petitioner to reinstatement.

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- d) Investigative Evaluation
- 1) A petitioner will be required to complete and submit an investigative alcohol drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:
 - A) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last ~~5~~4 years (as of the date of the hearing) for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years (as of the date of the hearing), or the ~~petitioner~~petitioner's has a conviction for an alcohol/drug-related criminal offense within the last 5 years (as of the date of the hearing) record, as defined in this Section, or the facts of the current loss of driving privileges indicate the use or potential use of alcoholic beverages or other drugs at a time when the offender was under the age of 21 years and within the last 5 years (as of the date of the hearing)~~1001.410~~; or
 - B) the petitioner/respondent may be a user of alcohol or any other drug to a degree that renders that person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)
 - 2) The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver. Furthermore, if any rehabilitative (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) activity is recommended, then the petitioner must submit an ~~update~~updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated. An update evaluation is required even if the waiver is based upon the fact that the

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petitioner completed treatment prior to the date that the investigative evaluation was conducted.

- 3) The requirements of this subsection (d) also apply to an investigative evaluation that is submitted by a petitioner voluntarily.
 - 4) The Department reserves the discretion to waive the requirement of the investigative evaluation if the current criminal offense is a misdemeanor and there is no other evidence of a current alcohol or drug problem.
- e) Examination. A petitioner will be required to submit to a driver's license examination prior to the reinstatement of driving privileges if the test has not been successfully completed in the preceding 12 months.
 - f) Public Safety and Welfare. In case of either subsection (b) or (c), the public welfare and safety must not be endangered by the reinstatement of the petitioner's driving privileges. The petitioner, if restored to full driving privileges, must operate a motor vehicle safely so as not to be a danger to himself or herself or other drivers on the road. The mere passage of time since the date of revocation is not sufficient evidence.
 - g) Eligibility; New Residents of Illinois. A hearing for reinstatement will not be conducted at any time before the prescribed date of eligibility. The Secretary of State will not issue a driver's license to a new resident of Illinois while his/her driving privileges are revoked in another jurisdiction, pursuant to IVC Section 6-103.1 ~~of the Code~~.
 - h) Ticket Pending. The driving privileges of a petitioner shall not be reinstated while any ~~moving traffic~~ offense is pending against a petitioner in any court of this or any other state unless the pending citation or citations are also the only cause of the current loss of driving privileges ~~him/her in any court~~.
 - i) 75% Rule. A petitioner who was issued an RDP at his/her previous hearing ~~is driving on a restricted driving permit at the time of his/her hearing~~ will not be considered for reinstatement of driving privileges, regardless of the petitioner's date of eligibility for reinstatement, unless he/she has successfully completed driving on that permit for 75% of its length, or has driven continuously on the current permit and a previously issued permit for a total of at least 9 months at the time that the petitioner becomes eligible for the reinstatement. However, a

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petitioner may appeal to the Director of the Department for a waiver of this provision when exigent circumstances warrant consideration of a waiver. An exigent circumstance is one that would prevent the petitioner from ever being able to meet this requirement, such as moving out of the State.

- j) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.
- k) Out-of-state Petitioners – Never Resided in Illinois. Notwithstanding any other provisions of this Subpart, the following provisions for reinstatement of the Illinois driving privileges for certain out-of-state petitioners shall apply:
 - 1) Out-of-state petitioners whose driving privileges are revoked in Illinois shall be granted reinstatement of Illinois driving privileges upon a showing that:
 - A) he/she is not currently a resident of the State of Illinois ~~and resides more than 30 miles from the Illinois border~~;
 - B) at the time of arrest or arrests in Illinois for the violations that led to the revocation of the Illinois driving privileges, the petitioner was not licensed to drive in Illinois, was a resident of a state or jurisdiction other than Illinois, and continues to reside in that or any other state or jurisdiction;
 - C) the petitioner is not currently seeking to reside in or be licensed to drive in the State of Illinois;
 - D) the state of residence and/or licensure of the petitioner at the time of the Illinois arrests did not take action, or took action against the driving privileges of the petitioner based upon the Illinois arrest and the action has terminated;
 - E) but for the revocation in Illinois, the petitioner is not prohibited from obtaining driving privileges in any state or jurisdiction other than Illinois. The Secretary reserves the discretion to check the

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status of the petitioner's driving privileges in other states, as reported by the PDPS; and

- F) the petitioner has paid all necessary fees due the State of Illinois.
- 2) Out-of-state petitioners granted reinstatement under the provisions of this subsection (k), who subsequently apply for Illinois driving privileges and a driver's license within 3 years ~~after~~from the date of reinstatement in Illinois, shall be required to have an administrative hearing and meet all of the applicable requirements of this Subpart prior to the issuance of any Illinois driving privileges and a driver's license.
- l) Out-of-state Petitioners – 15 Years Rule. Out-of-state petitioners whose driving privileges were revoked in Illinois more than 15 years prior to the filing date of their current petition for driving relief shall be granted reinstatement, upon submission of a completed application and payment of the required fees, if a search of the PDPS shows that the petitioner has not had any DUI dispositions, as defined in Section 1001.410, or a finding of guilty or a plea of guilty to the possession, manufacture or delivery of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act within 15 years prior to the filing date of the current petition. The Secretary reserves the discretion to deny reinstatement pursuant to this Section and require the petitioner to satisfy the requirements of this Subpart D if the petitioner voluntarily submits evidence indicating that he or she has a current alcohol or drug problem.
- m) Out-of-state Petitioners – Less than 15 Years Rule. Out-of-state petitioners whose driving privileges were revoked in Illinois less than 15 years prior to the filing date of their current petition for reinstatement must satisfy the requirements of this Subpart D.
- n) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which

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the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to [IVC Section 6-208\(b\)1](#) ~~of the Code~~, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

- [o\) Any revisions or amendments to the Code that contradict or are in conflict with this Section shall take precedence.](#)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations

- a) Documents/Evidence Required. Except as provided in subsection (a)(1), in any application for reinstatement, an RDP, or the termination of an order of cancellation [at a show cause hearing](#), all petitioners must submit an alcohol and drug evaluation and, where required, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of [early intervention](#), treatment or proof of adequate rehabilitative progress. [These requirements apply to MDDP offenders whose permits are cancelled and who apply for an RDP pursuant to IVC Section 6-206.1\(1\) and Section 1001.444\(a\) of this Part.](#)
- 1) An alcohol and drug evaluation and the evidence of successful completion of [early intervention or](#) treatment submitted by a resident of Illinois must have been conducted by an individual or an agency licensed by DASA. An alcohol or drug-related driver risk education course completed by an Illinois resident must have been provided by an individual or agency licensed by DASA. (See 77 Ill. Adm. Code 2060.201.) Exceptions to these requirements will be allowed in the [following cases listed in subsections \(a\)\(1\)\(A\) and \(B\), as follows:](#)
- A) If the petitioner is currently and has been temporarily residing outside the State of Illinois (except as provided in Section 1001.100(a)(2)), then the evaluation, [early intervention](#), treatment, and driver risk education course may be provided by an individual

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or agency accredited by the state in which the individual or agency operates; ~~or~~

- B) If the petitioner currently resides in Illinois but received treatment for alcohol or drug abuse or dependence from a treatment program located outside the State of Illinois that has been appropriately accredited by the state in which it operates, then the petitioner may document the successful completion of that treatment in the manner provided by subsection (m) ~~of this Section~~. However, the petitioner's evaluation and driver risk education course must be provided by an individual or agency licensed by DASA; ~~or~~
- C) If the petitioner successfully completed, after his or her most recent arrest for DUI, a High Risk treatment program provided by an individual or agency licensed by DASA.
- 2) Out-of-state Petitioners. If the petitioner is a resident of another state at the time he or she files a petition for reinstatement of Illinois driving privileges and is, therefore, applying as an out-of-state resident pursuant to Section 1001.100(~~ba~~), he/she may submit an evaluation, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of treatment or proof of adequate rehabilitative progress from the state in which he/she resides or from any other state, so long as the agency or individual therapist that provides these services has been appropriately accredited by the state in which it operates.
- 3) Choice of Programs. The choice of these programs is within the discretion of the petitioner. The evidence submitted must be printed typewritten, although the evaluator may testify at any hearing.
- 4) Evaluation Standards. The alcohol and drug evaluation (Uniform Report)(~~uniform report~~), as defined in Section 1001.410, must conform to all current standards for an evaluation set by DASA, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D. (See 77 Ill. Adm. Code 2060.503.) The evaluation must be signed and dated by both petitioner and evaluator. The evaluation must include a recitation of: the petitioner's alcohol/drug use history, from first use to present use; all DUI dispositions, as defined in Section 1001.410,

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including any out-of-state DUI disposition, regardless of whether the offense has been recorded to the offender's Illinois driving record; any arrests or implied consent suspensions for boating or snowmobiling under the influence that occurred within the last 5 years (as of the date of the hearing); a referral to early intervention or treatment, or a referral to a treatment provider for the purpose of conducting a Treatment Needs Assessment (see Section 1001.440(b)(7)); and the petitioner's alcohol/drug-related criminal convictions record, as defined in Section 1001.410. The alcohol/drug use history must be recited in either the body of the evaluation or in an attachment to the evaluation. The attachment must include the evaluator's signature, the date it was composed, and the name of the agency or program that is providing the evaluation.

- 5) Driver Risk Education Course. The alcohol and drug-related driver risk education course must, at a minimum, conform to the standards for alcohol/drug driver risk education courses set by DASA. (See 77 Ill. Adm. Code 2060.505.) Any alcohol or drug related driver risk education course required by this Part must be completed after the date of the most recent arrest for DUI, BUI or SUI.
- 6) Evaluation Must Be Current. The alcohol and drug evaluation must be current, which is defined as having been completed within 6 months prior to the date of the hearing.
 - A) UpdateUpdated Evaluation. An updateupdated evaluation shall be conducted only by means of an in-person interview and only by the same program that conducted the original evaluation. Exceptions to the latter requirement will be allowed under the following circumstances:
 - i+) Transfer of File. If the petitioner's evaluation or treatment file or copies of all evaluation or treatment file material are transferred to another evaluation or treatment program that prepares the update. The program that conducts the updateupdated evaluation should explain, either in a separate cover letter or in the body of the updateupdated evaluation, how, when and why the petitioner's file was transferred to it. The transfer will be considered acceptable only if the original evaluating program can no longer

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provide evaluation services for reasons such as a suspended or revoked license or voluntarily terminating evaluation business operations, or if an individual service provider leaves the program that conducted the original Uniform Report and the petitioner wishes to continue receiving services from that individual, or if the petitioner relocates to another part of the state. In the latter case, the petitioner carries the burden of proving that he or she relocated at least 50 miles from the original service provider's nearest location. When transferring a file, the sending program shall not allow it to be delivered by the petitioner to the receiving agency. If an update cannot be obtained by reviewing the original case file information, another original evaluation must be submitted.

ii2) Treatment Provider Who Can Perform Update Evaluations. If the petitioner completes primary treatment recommended as a result of the most recent alcohol and drug evaluation, the program providing the treatment may prepare any subsequent updateupdated evaluation from its own case file information without obtaining the information from the evaluating program that made the treatment recommendation. Furthermore, a chronological alcohol/drug use history may be prepared by the program that provided the treatment, when one is requested by the petitioner, the Secretary or a hearing officer in a decision entered as a result of a formal or informal hearing, to be submitted as part of the petitioner's evidence at his/her next hearing. A treatment provider may not conduct the update evaluation if the only service it provided was early intervention or if it waives treatment, unless the petitioner's case file has been transferred to it.

B) UpdateUpdated Evaluation – Content. An Illinois and out-of-state updateupdated evaluation shall reporteontain, at a minimum and when applicable, the following: a description of alcohol/drug use and/or abuse covering the time since the last evaluation or update; the facts of any arrest or citation for a traffic or criminal offense that is, in any way, alcohol/drug-related; any impairment of

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significant life areas, any symptoms of alcohol/drug abuse or alcohol/drug-related problems since the last evaluation or update; any current significant physical, medical, emotional/mental health or psychiatric problem and participation in, and/or completion of, any early intervention or treatment for that problem; whether the petitioner is taking any prescription medication that, when taken alone or in combination with alcohol or other drugs, might impair driving ability; any significant life style changes since the previous evaluation; the petitioner's current peer group and most important recreational activities; the petitioner's intent regarding future of alcohol/drug use; if the petitioner is classified as High Risk-Dependent, identification of the petitioner's support group and the evaluator's assessment of its effectiveness and sufficiency; a response to the issues raised at the petitioner's most recent hearing for driving relief and an assessment of whether additional treatment is warranted; the evaluator's previous and current alcohol/drug-use classification of the petitioner; any current recommendations and the rationale for ~~those such~~ recommendations; and an indication of whether the petitioner has completed all prior recommendations. If the petitioner's Uniform Report did not include the alcohol/drug use history required by subsection (a)(4), then it may be provided in an ~~update~~updated evaluation. The ~~update~~updated evaluation must be corroborated by an interview with a family member or significant other. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The ~~update~~updated evaluation must be ~~printed~~typewritten, on a form provided by the Department, and verified by the evaluator. (See subsection (a)(1) of this Section.)

- i+) Any ~~update~~updated evaluation that reclassifies a petitioner to or within a Moderate, Significant or High Risk classification shall include a referral to a treatment provider for the purpose of determining the need, if any, for additional rehabilitative activity. Any waiver of additional rehabilitative activity by the treatment provider must be in writing and include the rationale for the waiver. Any recommendation for additional rehabilitative activity must be complied with before relief will be granted.

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- ii2) A petitioner may not submit an update~~updated~~ evaluation if the Uniform Report~~uniform report evaluation~~ being updated does not discuss the most recent DUI disposition. In such case the petitioner must submit a Uniform Report~~uniform report evaluation~~.
- iii3) An update~~updated~~ evaluation may not reclassify a petitioner from a previous classification unless the evaluator believes that the previous classification was improper or in error and justifies and explains in detail why the previous classification was improper or in error and why the new classification is proper and appropriate.
- C) Out-of-state Evaluation – Content Requirement. An out-of-state alcohol and drug evaluation shall report~~contain~~, at a minimum and when applicable, the following: a complete alcohol and drug use history, from first use to present use, including a recitation of any symptoms of alcohol/drug abuse or alcohol/drug-related problems experienced by the petitioner throughout his/her alcohol/drug use history; whether there is any history of alcoholism or drug addiction in the petitioner's immediate family; whether the petitioner has a history of treatment for alcohol/drug abuse; any current significant physical, medical, emotional/mental health or psychiatric problem and participation in, and/or completion of, any treatment for that problem; whether the petitioner is taking any prescription medication that, when taken alone or in combination with alcohol or other drugs, might impair driving ability; a detailed discussion of the petitioner's most recent arrest for DUI; a history of any alcohol and drug-related offenses (including all DUI dispositions, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record); a current alcohol/drug use classification of the petitioner and the rationale for that classification; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation

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must be verified by the evaluator. The individual or agency that completes the evaluation must be properly accredited or licensed in the state in which the individual or agency operates.

- D) Investigative Evaluation – Content. An Illinois and Out-of-State investigative alcohol and drug evaluation shall ~~report~~contain, at a minimum and when applicable, the following: a complete alcohol and drug use history, from first use to present use, including a recitation of any symptoms of alcohol/drug abuse or alcohol/drug-related problems experienced by the petitioner throughout his/her alcohol/drug use history; whether there is any history of alcoholism or drug addiction in the petitioner's immediate family; whether the petitioner has a history of treatment for alcohol/drug abuse; any current significant physical, medical, emotional/mental health or psychiatric problem and participation in, and/or completion of, any treatment for that problem; whether the petitioner is taking any prescription medication that, when taken alone or in combination with alcohol or other drugs, might impair driving ability; a response to the issues raised at the petitioner's most recent hearing for driving relief and an assessment of whether additional treatment is warranted; a history of alcohol and drug-related driving, boating, snowmobiling, and criminal offenses (including all DUI dispositions, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record); a clinical impression of what the evaluation data indicates and the rationale for that conclusion; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation must be ~~printed~~typewritten, on a form provided by the Department, and verified by the evaluator. The program that completes the evaluation must meet the same standards as programs qualified to prepare Uniform Reports.~~uniform report evaluations~~ (See subsection (a)(1).)
- E) Circumstances When an Update of an Investigative Evaluation is Required. If the evaluator recommends any rehabilitative activity

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~~after conducting an Investigative Evaluation, the petitioner must submit an update evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.~~ If the evaluator concludes that the petitioner does not need any rehabilitative activity (i.e., a driver risk education course, early intervention, or treatment for alcohol/drug abuse), and the Secretary accepts this conclusion, then the petitioner is not required to submit an ~~update~~updated evaluation at future hearings (assuming that there are no intervening alcohol/drug-related arrests or incidents that might cause the Secretary to question this conclusion). ~~However, if the evaluator recommends any rehabilitative activity, then the petitioner must submit an updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.~~

- F) Circumstances When an Update~~Updated~~ Evaluation is Not Required. Petitioners classified at High Risk Dependent who have driven successfully on a restricted driving permit for at least 3 years after submitting an original evaluation are not required to provide an ~~update~~updated evaluation if:
- i) the petitioner files for an extension or revision of the RDP, an additional RDP, or for another hearing during the term of the current RDP; or
 - ii) the current RDP is expired for no more than 30 days at the time the petitioner files for an extension or revision of the RDP, an additional RDP, or for another hearing. All other documentation required by this Subpart D must be submitted.
- b) Burden of Proof. Before any driving relief will be granted, the petitioner must prove by clear and convincing evidence: that he/she does not have a current problem with alcohol or other drugs; that he/she is a low or minimal risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that he/she has complied with all other standards as specified in this Subpart D. If the evidence establishes that the petitioner has had an alcohol/drug problem, the petitioner must also prove that the problem has been resolved.

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- 1) Minimal Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Minimal Risk must document successful completion of a 10 hour alcohol/drug driver risk education course by submission of a document that reflects the completion of the requirements contained in 77 Ill. Adm. Code 2060.505. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C).
- 2) Moderate ~~and Significant~~ Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Moderate Risk~~Moderate or Significant Risk~~ must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the early intervention and any additional treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). The early intervention and/or treatment must be provided by an individual or agency licensed to provide ~~those such~~ services~~treatment~~ by DASA or the Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates.
- 3) Significant Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Significant Risk must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). The treatment must be provided by an individual or agency licensed to provide those treatments by DASA or the Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates.
- 43) High Risk Dependent. Petitioners classified under this Section as High Risk Dependent must document abstinence as required in subsection (e); the completion of treatment provided by a facility or facilitator licensed by

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DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; the establishment of an ongoing support/recovery program; and compliance with any additional recommendations of his/her evaluator or treatment provider.

- 54) High Risk Nondependent. Petitioners classified under this Section as High Risk Nondependent must document: non-problematic use as provided in subsection (f); treatment provided by a facility or facilitator licensed by DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; compliance with any additional recommendations of his/her evaluator or treatment provider, including abstinence; and a detailed explanation by the treatment provider as to why dependency was ruled out. The failure of a petitioner to submit the "detailed explanation" is sufficient grounds, in and of itself, to deny the petition for driving relief. The explanation should focus on the most recent offense.
- 65) Investigative Evaluation. Petitioners who obtain an investigative alcohol/drug evaluation must document the completion of any recommended intervention or treatment provided by a facility or facilitator licensed by DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates. If found to be chemically dependent, then the petitioner must prove abstinence as required in subsection (e) and the establishment of an ongoing support/recovery program, and compliance with any additional recommendations of his/her evaluator or treatment provider. Furthermore, if rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) is recommended, then the petitioner must submit an ~~update~~updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.

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- 76) Treatment Waiver Required – Documentation of Most Recent Treatment. In the event that a treatment provider does not require an individual classified Moderate, Significant or High Risk to complete at least the minimum amount and type of early intervention or treatment specified by DASA, the treatment provider must supply the Department with a detailed explanation of the rationale for that decision. The driver risk education course cannot be waived, except as provided in subsection (a)(1)(C). In the course of assessing whether to waive early intervention or treatment, the treatment provider should attempt to obtain documentation of a petitioner's most recent treatment experience and incorporate the information in this assessment if: the treatment provider contends that the petitioner's alcohol/drug use classification should be changed to a lower risk classification, or the documentation states that the petitioner's prognosis at the time of discharge was guarded. The treatment provider should be prepared to explain the reasons for not obtaining this documentation and to provide written verification that the documentation is not available. The Secretary reserves the discretion to reject a waiver of treatment if the hearing officer is able to articulate specific reasons to doubt its validity.
- 87) Treatment Needs Assessment Required; Documentation of Most Recent Treatment. Whenever a service provider conducts and composes a Uniform Report, it is required to refer the petitioner to a treatment provider for an assessment of whether intervention or treatment for alcohol/drug abuse is warranted, pursuant to DASA rules at 77 Ill. Adm. Code Section 2060.503(h). The petitioner must provide a Treatment Needs Assessment whenever another Uniform Report is composed, regardless of whether the petitioner successfully completed intervention or treatment after the previous Uniform Report, in order to inform the Secretary whether additional intervention or treatment is warranted as a result of the information obtained during the course of the subsequent Uniform Report. The Treatment Needs Assessment shall be composed on the treatment provider's letterhead stationery or incorporated into the "Treatment Verification" form composed, published and distributed by the Department. If composed on stationery, then the Treatment Needs Assessment must be signed and dated by the counselor responsible for the assessment.

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- A) The Treatment Needs Assessment must be provided by a licensed treatment provider regardless of whether the petitioner has committed any traffic or criminal offense that mandates the composition of a Uniform Report.
- B) In the course of conducting the Treatment Needs Assessment, the treatment provider should attempt to obtain documentation of a petitioner's most recent treatment experience and incorporate the information in this assessment, along with the petitioner's conduct since that treatment experience, in the provider's findings and conclusions. The treatment provider should be prepared to explain the reasons for not obtaining this documentation and to provide written verification that the documentation is not available.
- ~~B) The reasons for which a subsequent Uniform Report may be composed include, but are not limited to: at the request of a petitioner or petitioner's legal counsel (to, for example, start the rehabilitative process over); to obtain a second opinion on the nature and extent of a petitioner's alcohol/drug use; because the previous Uniform Report is several years old; because the program that composed the previous Uniform Report has ceased operations without transferring the petitioner's file to another program; because evidence at a previous hearing indicates the need for additional treatment or raises questions as to the adequacy of the treatment received; or because the petitioner has lost his/her copy of the Uniform Report and is not able to verify its authenticity or correctness.~~
- c) **Rebuttable Presumption.** The presence of more than one DUI disposition on a petitioner's abstract shall create a rebuttable presumption that the petitioner suffers from a current alcohol/drug problem and should, therefore, be classified at least Significant Risk.
- d) **Evidence Considered.** Evidence which shall be considered in determining whether the petitioner has met his/her burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not limited to, the following, where applicable:
- 1) The factors enumerated in Section 1001.430(c);

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- 2) The similarity of circumstances between alcohol or drug-related arrests;
- 3) Any property damage or personal injury caused by the petitioner while driving under the influence;
- 4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change;
- 5) The chronological relationship of alcohol/drug-related arrests;
- 6) Length of alcohol/drug abuse pattern;
- 7) Degree of self-acceptance of alcohol/drug problem;
- 8) Degree of involvement in or successful completion of prior treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;
- 9) Prior relapses from attempted abstinence;
- 10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;
- 12) The petitioner's explanation for his/her multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;
- 13) In out-of-state petitions, the evaluator's rationale for classifying a petitioner with multiple DUI dispositions as a Minimal or Moderate Risk. In these cases it is particularly important that the evaluator's classification be based on complete and accurate information;
- 14) The petitioner's criminal history, particularly drug offenses or offenses

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that in any way involved alcohol/drugs;

- 15) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;
- 16) The extent to which, in terms of completeness and thoroughness, a petitioner and his/her service providers have addressed every issue raised by the hearing officers in previous hearings;
- 17) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations that deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon the degree to which the evaluation deviates from this standard and the standards imposed by DASA;
- 18) The petitioner's record of performance while driving with an interlock device and his/her record of compliance with the terms and conditions of the breath alcohol ignition interlock device program [or the monitoring device driving permit program](#);
- 19) Written or verbal statements from members of the public, including crime victims as defined in the Code of Criminal Procedure [725 ILCS 120/3] or family members of victims of offenses committed by a petitioner, so long as the statement is relevant to the issues at the hearing;
- 20) The service provider's clinical rationale or justification for changing the classification of a petitioner's alcohol/drug use, or for giving a classification that is different than that given in other evaluation or treatment documents or by other service providers;-
- 21) [The treatment provider's explanation for failing to obtain documentation of the petitioner's most recent treatment](#);

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22) Whether the petitioner has been incarcerated and was recently released after an extended period of incarceration and whether the petitioner participated in any rehabilitative activity during his or her incarceration.

e) Documentation of Abstinence

- 1) Petitioners classified as High Risk Dependent, or any other petitioner with a recommendation of abstinence by a DASA licensed evaluator or treatment provider, must have a minimum of 12 consecutive months of documented abstinence, except as provided in subsections (e)(3) and (4), in regard to opiate substitution and medical cannabis programs. This means that the petitioner must be abstinent from alcohol and all controlled substances, legal and illegal, unless the drug is prescribed by a physician, and regardless of whether alcohol or another drug was the petitioner's drug of choice when using. Abstinence that occurs during a period of extended incarceration is not favored, unless petitioner took proactive steps to rehabilitate himself or herself while incarcerated, as it occurs in a controlled environment. Documentation of abstinence must be received from at least 3 independent sources. The sources should not be fellow members of a support group unless those members have regular and frequent contact with the petitioner outside the group meetings. The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Letters or witness testimony establishing abstinence should contain, at a minimum, the following:
 - A) The person's relationship to petitioner (friend, family member, fellow employee, etc.).
 - B) How long the person has known the petitioner.
 - C) How often the person sees the petitioner (daily, weekly, monthly, etc.).
 - D) How long the person knows the petitioner has abstained.
 - E) Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more

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than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer. The petitioner's failure to maintain strict compliance with these requirements shall not be the sole basis for withdrawing from a hearing or denying relief.

- 2) Waivers of the rule requiring 12 months of abstinence are discretionary when considering an RDP but shall not be granted unless the petitioner proves at least 6 months continuous abstinence at the time of the hearing.
- 3) Opiate Substitution Programs. Petitioners who are able to document that they are involved in a long-term opiate substitution program, such as methadone maintenance, are not required to prove abstinence from the substitute drug that has been prescribed to them in order to obtain driving relief. Rather, they must prove that they have been stable in the program for at least one year. Their documentation must include a letter from their primary counselor and their attending physician that describes the nature of the program, the petitioner's progress and status in the program, the petitioner's prognosis for success and how much longer the petitioner will remain in the program and on the prescribed substitute drug. The petitioner must satisfy the other requirements of this Subpart D, including abstinence from alcohol and all other drugs, in order to obtain driving relief.
- 4) Use of Medical Cannabis. Petitioners who are able to document that they have been prescribed what is defined and authorized as "medical cannabis" in the Compassionate Use of Medical Cannabis Pilot Program Act are not required to prove abstinence from the cannabis that has been prescribed to them in order to obtain driving relief. Rather, they must prove that they have been stable in the program for at least one year. Their documentation must include a letter from their primary counselors and their attending physician that describes the condition or illness for which the cannabis is used, the petitioner's progress and status in the program, the petitioner's prognosis and how long the physician anticipates that the petitioner will remain in the program and on the prescribed cannabis. The petitioner must satisfy the other requirements of this

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Subpart D, including abstinence from alcohol and all other drugs, in order to obtain driving relief.

5) Consumption of "Near-Alcoholic" Beverages. The consumption of "near-alcoholic" beverages does not violate the rule requiring abstinence. However, this conduct is a valid subject to be considered in determining the ultimate issue of whether the petitioner has met his/her burden of proving that he or she will be a safe and responsible driver. The Secretary will consider the petitioner's motivation for consuming near-alcoholic beverages, the circumstances under which they are consumed (when, where, why, with whom and how often), the strength of his or her support system, the petitioner's degree of acceptance of his or her alcoholism/chemical dependency, and whether near-alcoholic beverages were ever used in the past (and whether this use occurred before or after the commission of a DUI). The petitioner carries the burden of proving that the use of near-alcoholic beverages is not a matter of concern.

f) Documentation of Non-Problematic Use

- 1) Petitioners classified as High Risk Nondependent must demonstrate at least 12 consecutive months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs. This evidence must be submitted from at least 3 independent sources and generally comply with the standards set forth in subsection (e).
- 2) Waivers are discretionary when considering an RDP, but shall not be granted unless the petitioner demonstrates at least 6 months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs.

g) Documentation of Support/Recovery Program

- 1) If the petitioner has been attending a support/recovery program, the petitioner must present at least 3 dated and signed letters or witness testimony from fellow support/recovery program members documenting at a minimum the following:
 - A) How long the person has known the petitioner;

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- B) How long the person knows that the petitioner has attended the program;
 - C) How often the petitioner attends the program.
- 2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer. The petitioner's failure to maintain strict compliance with these requirements shall not be the sole basis for withdrawing from a hearing or denying relief.
- h) Internet Support/Recovery Programs. A petitioner's participation in internet Alcoholics Anonymous, Narcotics Anonymous or other support/recovery program "chat rooms" or any other support/recovery program services available over the internet may be an acceptable substitute for the regular attendance of meetings in person. The factors to be considered by the hearing officer and the Secretary in evaluating the effectiveness and probative value of this form of support include, but are not limited to, the following: the petitioner's reasons for not attending meetings in person; the petitioner's alcohol/drug use history and history of relapse; the length of the petitioner's abstinence at the time of the hearing; the proximity of A.A. and N.A. meetings to the petitioner's residence and workplace; the petitioner's physical/medical condition, as it affects his/her ability to travel; the availability of public and private transportation to meetings; whether the petitioner has attended meetings in person in the past, and the length of that attendance; whether the petitioner's evaluator and treatment provider are aware and approve of the petitioner's participation in this form of support; the extent of the petitioner's knowledge of, commitment to, and involvement in the program; the extent of the petitioner's knowledge of the disease process of alcoholism/chemical dependence; the extent of the petitioner's acceptance of his/her alcoholism/chemical dependence. The participation in internet support/recovery program chat rooms is not favored by the Secretary of State. Therefore, substantial documentation and testimony regarding this method of support is required in order for the petitioner to carry his/her burden of proof on

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this issue, including identification of the specific websites that the petitioner uses and verification of the petitioner's participation by chat room members.

- i) Non-Traditional Support/Recovery Programs
 - 1) If the petitioner's support/recovery program does not involve a structured, organized, recognized program such as A.A. or N.A., the petitioner is required to identify what that program is and explain how it works and keeps petitioner abstinent. The petitioner is required to present either witness testimony or written verification of the program from at least three independent sources involved in the program. If the verification is in the form of letters, those letters should be signed and dated. All such evidence must contain, at a minimum, the following:
 - A) The person's relationship to the petitioner (friend, family member, fellow employee, etc.);
 - B) How long the person has known the petitioner;
 - C) How often the person sees the petitioner (daily, weekly, monthly, etc.);
 - D) How the person is involved in the petitioner's recovery program and what role the person plays in helping the petitioner abstain from alcohol/drugs;
 - E) What changes the person has seen in the petitioner since petitioner's abstinence.
 - 2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

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- j) Support/Recovery Program Sponsor. If the petitioner has a support/recovery program sponsor, a letter should be obtained (or the testimony submitted) from his/her sponsor documenting the data in subsection (g)(1). The purpose of a letter or the testimony of an A.A. sponsor is to provide the Secretary with substantial detail regarding the petitioner's progress and development in the A.A. program. However, this letter or testimony can also be used to satisfy the requirements of subsection (g). The submission of a letter from a petitioner's sponsor is not mandatory, but is strongly recommended. A petitioner's failure to submit a letter from his/her sponsor is not, by itself, a sufficient basis upon which to deny driving relief.
- k) RDP for Support/Recovery Program – Information Required. In cases in which~~where~~ a petitioner seeks an RDP~~a restricted driving permit~~ to allow him/her to drive to support/recovery program meetings, he/she must provide specific information identifying, at a minimum, the following:
- 1) The locations of the meetings he/she wishes to attend;
 - 2) The days of the week when meetings are held at these locations;
 - 3) The hours of the day when these meetings are held.
- l) Early Intervention – Information Required. If the petitioner has undergone early intervention (Moderate Risk classification), he/she must provide a narrative summary that includes, at a minimum, the following:
- 1) The name, address, and telephone number of the licensed service provider;
 - 2) The dates the petitioner began and completed early intervention, as well as the number of days or hours he/she was involved in the intervention process;
 - 3) A summary discussion of the intervention provided and its outcome, specifically, those issues that were addressed or explored and the provider's perception of what the petitioner gained from the experience and his/her ability to avoid future development of alcohol problems;
 - 4) The rationale for any modification in the early intervention requirements specified by DASA;

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- 5) The dated signature of the professional staff person providing the early intervention information;:-
 - 6) The narrative summary shall be composed on the treatment provider's letterhead stationery;
- m) Treatment – Information Required. If the petitioner has had alcohol or drug related treatment, he/she must provide the following information listed in this subsection (m). A petitioner is required only to submit proof of his/her most recent primary treatment experience.:-
- 1) A narrative summary that includes, at a minimum:
 - A) The name, address, and telephone number of treatment center;
 - B) The date the petitioner entered primary treatment and the date the petitioner was discharged from treatment; the number of days or hours the petitioner was involved in treatment; the admitting and discharge diagnosis;
 - C) The type of treatment received (e.g., outpatient, intensive outpatient, or inpatient treatment; individual or group therapy);
 - D) A clinical impression or prognosis of either a Moderate or Significant Risk petitioner's ability to maintain a non-problematic pattern, or a High Risk petitioner's ability to maintain a stable recovery where applicable. Specifically, the treatment provider's perception of what the petitioner gained from the treatment experience and whether the experience was sufficient to substantially minimize the possibility of a recurrence of alcohol/drug related problems;
 - E) Any recommendations for continuing care or follow-up support, and an indication of the petitioner's participation, if applicable;
 - F) The rationale for any modification in the treatment requirements specified by DASA;

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- G) The dated signature of the professional staff person providing the treatment information.
- 2) Copies of the following documents required by DASA:
- A) Individualized Treatment Plan. (See 77 Ill. Adm. Code 2060.421.)
- B) Discharge Summary and Continuing Care Plan. (See 77 Ill. Adm. Code 2060.427.)
- 3) A current status report regarding the petitioner's involvement in continuing care. The Continuing Care Status Report~~This report~~ must discuss the petitioner's level of progress in completing follow-up activities outlined in the Continuing Care Plan. It may be composed by either the evaluator or the treatment provider, and shall be composed on the letterhead stationery of the agency or individual who authored the report. If continuing care has been completed, a final summary report must be provided that discusses the petitioner's progress throughout the course of completing all follow-up activities detailed in the Continuing Care Plan. If continuing care has been determined to be unnecessary, a report must be provided that discusses the clinical rationale for that decision. This waiver may be composed only by the treatment provider.
- 4) The Department reserves the discretion to require a petitioner to submit a Treatment Needs Assessment or a waiver of treatment as a consequence of a petitioner being unable to provide documentation of treatment. If the petitioner and his/her evaluator or treatment provider are~~is~~ unable to provide the required information or treatment documents, ~~they~~he/she must provide documentary evidence of their~~his/her~~ attempts to obtain the information and the reason for its unavailability.
- 5) The information required in subsection (m)(1) should be provided in the "Treatment Verification" form composed, published, and distributed to treatment providers as a courtesy by the Department. However, a petitioner's failure to submit a Treatment Verification form is not a sufficient basis, in and of itself, to deny driving relief, so long as the information required in subsection (m)(1) is submitted in some other format or in the other documents required to be submitted.

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- n) Evaluation Written for Court. If a petitioner presents an alcohol/drug evaluation that was obtained for the purpose of being sentenced onas a condition precedent to either obtaining a JDP or the disposition of a DUI charge or some other traffic or criminal offense, that evaluation must meet the requirements of this Section in order to be accepted by the Secretary of State.
- o) Out-of-state Petitioners – Evaluation Not Required. An out-of-state petitioner~~Out of state petitioners~~ whose last DUI disposition~~arrest for driving under the influence~~ occurred more than 1510 years prior to the filing from the date of the current petition application for driving relief may be excused from the requirement of an evaluation if the petitioner is able to satisfy the requirements of Section 1001.430(1)~~other evidence required of the petitioner, as set out in this subsection, indicates that the petitioner does not have a current problem with alcohol or other drugs; that, if the petitioner has had an alcohol problem, it has been resolved; that the petitioner is now a low or minimum risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that the petitioner can now be considered a safe and responsible driver. The rationale for this subsection is that the length of time since the petitioner's last DUI arrest indicates he/she is no longer a dangerous driver, and that Illinois' interest in a driver who no longer resides in this State is less than in one who resides in Illinois. Therefore, this exception does not apply to petitioners who reside within 30 miles of the Illinois border.~~
- 1) ~~Petitioner must submit, at a minimum, the following evidence:~~
- A) ~~An affidavit regarding his/her alcohol/drug use, on a form provided by the Secretary of State;~~
- B) ~~At least 3 letters of reference that, at a minimum, verify the frequency and amount of the petitioner's alcohol/drug use for at least the last 12 months prior to the hearing. The letters should also discuss the petitioner's character and ability to be a safe and responsible driver. The author must state how long he/she has known the petitioner, how often he/she sees, speaks to, or otherwise has contact with the petitioner, the nature of the contact, and the nature of their relationship;~~
- C) ~~If the petitioner was required to participate in an alcohol/drug evaluation after his/her last arrest for driving under the influence,~~

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~~then the petitioner must submit a copy of that evaluation;~~

- ~~D) If the petitioner has received treatment for alcohol/drug abuse, then he/she must submit a copy of the discharge summary of that treatment (written by the agency that provided the treatment);~~
 - ~~E) Petitioners who have been identified as or believe themselves to be alcoholic/chemically dependent must fulfill the requirements of subsection (b)(3) pertaining to abstinence and the establishment of an ongoing support/recovery program;~~
 - ~~F) Credible evidence of his/her driving record in the current state of residence. The Secretary of State may also obtain this evidence;~~
 - ~~G) Any other relevant evidence the petitioner desires to provide.~~
- 2) ~~Upon receipt of this evidence, it shall be reviewed by the Director of the Department, or a duly appointed hearing officer designated by the Director, for the purpose of determining whether the requirement of an alcohol/drug evaluation should be waived and the out-of-state petition disposed of based upon the evidence listed in subsection (c)(1). The factors recited in subsection (d) shall be utilized and applied in making this determination.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

**Section 1001.442 BAIID Provider Certification Procedures and Responsibilities;
Certification of BAIIDs; Inspections; BAIID Installer's Responsibilities; Decertification of
a BAIID Provider**

- a) Certification Required to Provide BAIID Services. No person or entity may provide BAIID services pursuant to this Subpart D unless certified as a BAIID provider by the Secretary. All certified BAIID providers must apply for recertification on an annual, calendar year basis, with applications for recertification due in the Secretary's office no later than ~~November~~December 1 of each year.
- b) Who May Provide BAIID Services. BAIID providers may be a manufacturer of BAIIDs, an authorized representative of a manufacturer of BAIIDs, an installer of

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BAIIDs or other business entity. Without regard to the specific business operations of the BAIID provider, all certified BAIID providers under this Section shall be responsible for insuring that all of the duties and responsibilities of a BAIID provider are carried out in accordance with this Subpart D, including, but not limited to, providing, distributing, installing and servicing approved BAIIDs. BAIID providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.

- c) Information Required in Application for Certification. Persons or entities desiring to be certified as BAIID providers may submit an application for certification at any time. An application for certification or recertification as a BAIID provider shall include all of the following information:
- 1) The name, business address and telephone number of the applicant. If the applicant is a business entity other than a corporation, the application must include the names and addresses of the owners of the entity. If the applicant is a corporation, the application must include the names and addresses of any person or entity owning 10% or more of the outstanding shares of the corporation;
 - 2) The names, business addresses and telephone numbers, and titles of any officers, managers or supervisors of the applicant who will be involved in the provision of BAIID services;
 - 3) A description of each BAIID the applicant proposes to install, including the name and address of the manufacturer and the model of the unit, with a copy of all manuals and information guides made available to program participants. Unless the BAIID has been previously certified by the Secretary pursuant to this Section, the application must include the information necessary to obtain certification of the BAIID pursuant to this Section;
 - 4) If the applicant is not a BAIID manufacturer, the application must include proof of the applicant's right to distribute and install the particular types of BAIIDs the applicant is proposing to utilize. The proof may include a letter (composed on letterhead stationery), or a copy of a purchase, lease, rental or distribution agreement with the manufacturer;

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- 5) A detailed description of the applicant's plan for distribution, installation and service of BAIIDs in Illinois, including the names and addresses of all installers the applicant intends to use. This plan must demonstrate the applicant's ability to distribute and install BAIIDs and the ability to submit reports to the Secretary electronically within the time frames established by this Subpart D;
- 6) A list of all other jurisdictions/states in which the applicant currently operates or has operated, and contact information for each jurisdiction/state;
- 7) Copies of policy and procedure manuals and training manuals used regarding installer training, calibration training, calibration equipment, installation equipment, and contracts/agreements with installers;
- 8) A signed statement that the applicant agrees to provide services to program participants who have been declared indigent by the Secretary for the purposes of the BAIID program;
- 9) Proof of liability insurance. General commercial liability and/or product liability insurance, which shall include coverage for installation services, shall be maintained with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. If the applicant is not both the manufacturer and installer of the BAIID, proof of liability insurance must be provided showing coverage of both the manufacturer and the installer. If proof of separate policies for the manufacturer and installer is provided, each policy must have minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. Other commercially acceptable insurance arrangements, in the same minimum amounts, may be accepted at the discretion of the Secretary;
- 10) A statement that the applicant shall agree to indemnify and hold the State of Illinois and the Secretary, their officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident to any of these actions, relating to bodily injuries to persons (including death) and for loss or damage to, or destruction of, real and/or tangible property (including property of the State) resulting from the negligence or misconduct of the

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applicant, its employees, agents or contractors in the manufacture, installation, service, repair, use or removal of a BAIID or performance of any other duties required by this Section;

- 11) Examples of images taken by the BAIID. If, in the opinion of the Secretary, the images are not clear and accurate, the Secretary may deny certification.
- d) The Secretary shall notify the applicant, in writing, of his or her decision regarding the application for certification or recertification as a BAIID provider.
- e) If an original or amended application to be certified or recertified as a BAIID provider is denied, the applicant may not reapply until 12 months have elapsed from the date of denial or the date of the final order of the hearing officer upholding the denial if the decision is reviewed in a formal administrative hearing. Prior to denying an application based on de minimis errors, including but not limited to typographical or scrivener's errors, the Secretary shall advise the applicant of the error and provide the applicant 14 business days to correct the error.
- f) In deciding whether to grant or deny an application, the Secretary may take into consideration the applicant's past performance in Illinois and other jurisdictions in manufacturing, distributing, installing or servicing BAIIDs, whether the applicant's license or certification to manufacture, distribute, install or service BAIIDs has ever been suspended, revoked, denied, cancelled or withdrawn and whether the applicant has applied to operate as a BAIID provider in another state and was denied.
- g) An applicant that has been certified pursuant to this Section may at any time submit an amended application seeking certification to distribute and install a BAIID model in addition to or other than the models previously certified for use by the applicant.
- h) Services that Must be Provided. After certification or recertification by the Secretary, BAIID providers shall provide the following services and meet the following requirements:
 - 1) All installations of BAIIDs shall be done in a workmanlike manner and shall be in accordance with the standards set forth in this Section and with

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the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this Section. All BAIIDs must be installed and all reports to the Secretary must be made within the time frames established by this Subpart D;

- 2) The BAIID provider shall only install models of BAIIDs that the provider has been authorized to install pursuant to this Section and the BAIIDs shall only be installed at installation sites reported to the Secretary pursuant to this Section;
- 3) Any BAIID provider that sells, rents and/or leases BAIIDs in Illinois pursuant to this Subpart D shall report to the Secretary within 7 days all such sales, rentals, and/or leases listing the BAIID permittee's name and driver's license number, the installer, the installer's location, the make and serial number of the BAIID, and the make, model and VIN of the vehicle in which the BAIID is installed;
- 4) The BAIID provider shall provide a toll free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours, Monday through Friday;
- 5) The BAIID provider shall provide a course of training and written instructions for the BAIID permittee or MDDP offender on operation, maintenance, and safeguards against improper operations, and instruct the BAIID permittee or MDDP offender to maintain a journal of events surrounding failed readings or problems with the BAIID. Copies of all materials used in this course of training shall be provided to the Secretary;
- 6) The BAIID provider shall provide service for malfunctioning or defective BAIIDs within a maximum of 48 hours after notification of a request for service. This support shall be in effect during the period the BAIID is required to be installed in a motor vehicle;
- 7) The BAIID provider shall provide, at the request of the Secretary, expert or other required testimony in any civil or criminal proceedings or administrative hearings as to issues involving BAIIDs, including the method of manufacture of the BAIID and how the BAIID functions;

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- 8) If a BAIID provider requires a security deposit by a BAIID permittee or MDDP offender and the amount of the deposit required is more than an amount equal to one month's rental or lease fee, the security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the State of Illinois. The BAIID provider will provide the Secretary with a certified statement of the escrow account upon the Secretary's request;
- 9) BAIID providers must submit monitor reports or reports of any other service to the Secretary whenever a BAIID is brought in for monitoring, a portion of the BAIID is sent to the BAIID provider, the BAIID is read remotely, or a BAIID is brought in pursuant to a service or notification report. Except as provided in subsection (h)(10), the reports must be submitted to the Secretary no later than 7 days from the date the BAIID is brought in, an appropriate portion of the BAIID is sent to the BAIID provider, or the BAIID is read remotely;
- 10) When a vehicle is brought into a service center to have the BAIID read or calibrated, the BAIID installer shall carefully inspect the BAIID and all wiring and connections related to the BAIID for signs of tampering or circumvention. If a BAIID has been installed that permits the BAIID permittee or MDDP offender to mail in a portion of the BAIID to be read and calibrated, or allows the BAIID to be read remotely, that BAIID permittee or MDDP offender shall be required to bring his or her vehicle into a BAIID installation site at least once every 6 months so that the BAIID and all related wiring and connections may be inspected for signs of tampering or circumvention. Within 2 business days after discovery, the BAIID provider shall report to the Secretary evidence of tampering or attempts to circumvent a BAIID. The BAIID provider shall preserve any available physical evidence of tampering or circumvention and shall make that evidence available to the Secretary. Within 2 business days after an inspection of a mail-in or remotely read BAIID vehicle, the installer shall notify the SOS that evidence of tampering or circumvention has been found;
- 11) BAIID providers shall notify the Secretary within 7 days when a BAIID has been installed, reinstalled or deinstalled, and shall provide to the Secretary, upon request, additional reports, to include but not be limited to

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records of calibrations, maintenance checks and usage records on BAIIDs placed in service in Illinois;

- 12) The BAIID provider shall provide service to all BAIID permittees or MDDP offenders who request services from the BAIID provider and who have met the requirements of this Subpart D, including the payment of fees due to the provider, unless the fees are otherwise waived by rule or statute;
- 13) The BAIID provider must immediately notify the Secretary in writing if the provider or the BAIID manufacturer or installer becomes unable to produce, supply, service, repair, maintain or monitor BAIIDs in compliance with this Subpart D or if the provider has been suspended or decertified in any other jurisdiction;
- 14) With the exception of mobile installations authorized by Section 1001.442(n), the BAIID provider shall provide the Secretary a list of all locations in Illinois where BAIIDS may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored. The BAIID provider shall notify the Secretary within 48 hours of any new installation locations or any installation locations that are closed;
- 15) The BAIID provider shall install, monitor and deinstall authorized BAIIDs without fee to any MDDP offender determined to be indigent by the Secretary who requests services from the BAIID provider and who presents written documentation of indigency from the Secretary;
- 16) The Secretary may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Subpart D, including, but not limited to, installation verification forms, monitoring report forms, noncompliance report forms, notices of calibration, verification, tampering or circumvention, removal or deinstallation report forms, and information necessary to implement and monitor the indigent surcharge payments to the Indigent BAIID Fund and payment provisions from the Indigent BAIID Fund set forth in [IVC](#) Section 6-206.1 ~~of the IVC~~ and Section 1001.444;

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- 17) The Secretary shall review and approve leases or rental agreements the BAIID provider intends to utilize between the BAIID provider and the BAIID permittee or MDDP offender. The BAIID provider shall submit to the Secretary a copy of the schedule of all fees that will be charged to BAIID permittees or MDDP offenders, and shall submit an amended schedule of fees whenever there is a change to the BAIID provider's fees;
- 18) The BAIID providers shall agree to take assignments to unserved areas of Illinois pursuant to this Section, as those areas are defined in subsection (m)(2);
- 19) The Secretary shall have the right to conduct independent inspections of BAIID providers, manufacturers and installers, including inspection of any BAIIDs and calibration equipment present at the time of the inspection, to determine if they are in compliance with the requirements of this Subpart D. The Secretary shall notify, in writing, and require the BAIID provider to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the BAIID provider shall notify the Secretary, in writing, of any corrective action taken;
- 20) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, provide the Secretary with not more than two BAIIDs for each model that is certified under this Section. These models will be used for demonstration and training purposes;
- 21) Unless an alternative method for reading and calibrating the BAIID has been approved by the Secretary, all BAIIDs shall be recalibrated, whenever they are brought to the provider for any type of service or monitoring, using a wet bath simulator or other approved equivalent procedure, i.e., dry gas standard. Calibrations shall be done no less frequently than every 67 days, including those BAIIDS that are read remotely;
- 22) Calibration equipment shall be in good working order and maintained and operated according to the equipment manufacturer's recommendations. Solution in wet bath calibration units shall be changed according to the manufacturer's recommendations and new solution shall be stored in a cool, dry location and discarded upon the expiration date. Dry gas cylinders must be stored in an area protected from exposure to weather;

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- 23) BAIID providers shall maintain records related to a BAIID permittee or MDDP offender, including but not limited to installation, monitoring, circumvention and deinstallation, for a period of 3 years after the BAIID is deinstalled.
- i) Criteria for Certification of BAIIDs. Only BAIIDs that have been certified for use in Illinois pursuant to this Section may be installed in the vehicles of BAIID permittees and MDDP offenders. Certification of a BAIID shall be based on the following criteria:
 - 1) A review and evaluation of test results from any nationally recognized and certified laboratory test facility that is accredited by the International Standards Organization (ISO). The evaluation and test results must affirm the BAIID's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, 78 Fed. Reg. 89, May 8, 2013, except for:
 - A) 1.4.S, Power, if the BAIID is not designed to be operated from the battery;
 - B) 1.5.2.S, Extreme Operating Range, if the BAIID is not designed to be operated below -20° C and above +70° C;
 - C) 2.3.S, Warm Up, if the BAIID is not designed to be operated below -20° C;
 - D) 2.5.S, Temperature Package, if the BAIID is not designed to be operated below -20° C and above +70° C;
 - 2) The BAIID provider must certify that the BAIID:
 - A) Does not impede the safe operation of a vehicle;
 - B) Minimizes opportunities to bypass the BAIID;
 - C) Performs accurately and reliably under normal conditions;

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- D) Prevents a BAIID permittee or MDDP offender from starting a vehicle when the BAIID permittee or MDDP offender has a prohibited BrAC, i.e., $P \geq 0.025$;
 - E) Satisfies the requirements for certification set forth in this Section;
 - F) Has a camera that takes clear and accurate images of the individual utilizing the BAIID and that has a sufficiently wide angle that it will be possible to determine whether the individual blowing into the BAIID is seated in the driver's seat and whether a circumvention device has been inserted into the mouthpiece of the BAIID;
 - G) Provides calibration stability for a period of no less than 67 days.
- 3) No BAIID shall be certified if it demonstrates an accuracy rate ≥ 0.01 in unstressed conditions or ≥ 0.02 in stressed conditions. The terms "stressed" and "unstressed" shall be defined according to the NHTSA standards referred to in subsection (i)(1);
 - 4) Any BAIID to be certified shall be designed and constructed with an alcohol setpoint of 0.025;
 - 5) Any BAIID to be certified shall require the operator of the vehicle to submit to a running retest at a random time within 5 to 15 minutes after starting the vehicle. Running retests shall continue at a rate of two per hour in random intervals not to exceed 45 minutes after the first running retest;
 - 6) Any BAIID to be certified shall be designed and constructed to immediately begin blowing the horn if:
 - A) The running retest is not performed;
 - B) The BrAC reading of the running retest is 0.05 or more; or
 - C) Tampering or circumvention attempts are detected;

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- 7) The BAIID shall be required to have permanent lockout 5 days after it gives service or inspection notification to the BAIID permittee or MDDP offender if it is not serviced or calibrated within that five day period.
- A) The BAIID shall give service or inspection notification to the BAIID permittee or MDDP offender upon the occurrence of any of the following events:
- i) Every instance in which the BAIID registers 3 BrAC readings of .05 or more within a 30 minute period;
 - ii) Any attempted tampering or circumvention;
 - iii) The time for the BAIID permittee or MDDP offender to take the vehicle for the initial monitor report;
 - iv) Every 60 days after the initial monitor report;
 - v) For MDDP offenders, 5 violations within the 60 day monitoring period;
 - vi) Every 6 months, for an inspection pursuant to Section 1001.441(h)(2) in which the type of BAIID installed allows for a portion of the BAIID to be mailed in or allows the BAIID to be read remotely;
- B) In addition, the BAIID shall record and communicate to the BAIID permittee or MDDP offender and to the Secretary's office via monitor reports all of the preceding events and all starts of the vehicle, both successful and unsuccessful;
- C) The BAIID shall record an image each time the vehicle is started, each time a test is prompted, each time a successful or unsuccessful test sample is taken, and whenever there is a failed attempt to provide a breath sample;
- 8) The BAIID shall be required to have 24 hour lockout anytime the BAIID permittee or MDDP offender registers 3 BrAC readings of 0.05 or more within a 30 minute period;

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- 9) Certification of a BAIID may be withdrawn by the Secretary, based on a field testing protocol developed by the Secretary to determine the BAIID's ability to operate in a consistently reliable manner and based upon review of field performance results; a review of BAIID usage by BAIID permittees and MDDP offenders; and BAIID monitor reports;
- 10) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, install not more than three of each model of BAIID for which certification is sought in the vehicles provided by the Secretary for field testing. The Secretary may independently evaluate each BAIID to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts, tampering, and testing for all specifications listed in this Subpart D;
- 11) Upon the request of the Secretary, for each model of BAIID certified under this Section, the BAIID provider shall provide a total of at least 10 hours of training to the Secretary's employees at no cost to the State of Illinois. This training shall be held at the times and locations within the State designated by the Secretary. The training shall be designed to familiarize the Secretary's employees with the installation, operation, service, repair and removal of the BAIIDs and with the training and instructions that the BAIID provider will give to BAIID permittees and MDDP offenders. The BAIID provider shall also provide the Secretary, upon request, the following materials:
 - A) A detailed description of the BAIID, including complete instructions for installation, operation, service, repair and removal of the BAIID;
 - B) Complete technical specifications describing the BAIID's accuracy, reliability, security, data collection and recording, tamper and circumvention detection, imaging and environmental features;
- 12) Any BAIID that is not certified may be re-tested at the request of the BAIID provider but not more often than once in a calendar year;

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- 13) The Secretary shall not accept for certification any BAIID that uses Taguchi cell technology to determine BrAC;
 - 14) BAIIDs must use, as their anti-circumvention method, one of the following technologies: either a positive>negative>positive or positive>negative air pressure test requirement, or a mid-test hum tone requirement. BAIID providers may submit for approval to the Secretary new anti-circumvention technologies. Upon approval by the Secretary, pursuant to the procedures in this subsection (i), these technologies shall be included with the previously mentioned anti-circumvention technologies as acceptable for use by BAIID providers. In addition to these anti-circumvention methods, all BAIIDs installed after July 1, 2013, and all BAIIDs in use in Illinois after July 1, 2015, shall include a camera that captures a clear and accurate image of the individual blowing into the BAIID, including a sufficiently wide angle that it will be possible to determine whether the individual blowing into the BAIID is seated in the driver's seat and whether a circumvention device has been inserted into the mouthpiece of the BAIID. The captured images shall be stored by the vendor while the BAIID is installed in the vehicle and for 3 years after removal and shall be made accessible to the Secretary, at the Secretary's request, either by electronic access to the vendor's system or electronic mail;
 - 15) After a BAIID has been certified by the Secretary, no firmware or software modifications shall be deployed without written authorization by the Secretary, which may include installation of the BAIID with the proposed firmware or software modifications in accordance with subsection (i)(10) and, if the Secretary determines the software or firmware modification is major or material, submission to an accredited lab in accordance with subsection (i)(1).
- j) BAIID Installers
- 1) All installations of BAIIDs must be performed by installers identified to the Secretary as employees of or contractors of a certified BAIID provider. The provider must inform the Secretary whether installation is being done by its own employees, contractors, or both. All installations shall be performed in a workmanlike manner. BAIID providers shall be responsible for their installer's compliance with this Subpart D. A BAIID

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provider may be decertified by the Secretary for the noncompliance of its installer with the requirements of this Subpart D;

- 2) All service centers [and mobile installation units](#) shall have all tools, test equipment and manuals needed to install BAIIDs and screen motor vehicles for acceptable mechanical and electrical condition prior to installation;
- 3) The installer shall provide adequate security measures to prevent access to the BAIIDs (tamper seals or installation instructions);
- 4) The installer shall appropriately install BAIIDs on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the BAIID manufacturer's instructions. All connections shall be soldered or secured with no crimp wire connectors and covered with tamper seals. It is the BAIID permittee's or MDDP offender's responsibility to repair the vehicle if any prior condition exists that would prevent the proper functioning of the BAIID. The installer shall inform the BAIID permittee or MDDP offender that a problem exists, but shall not be responsible for repairing the vehicle. The installer shall not permit the BAIID permittee or MDDP offender to observe the installation of the BAIID;
- 5) The installer shall not install BAIIDs in a manner that could adversely affect the performance of the BAIID or impede the safe operation of the motor vehicle;
- 6) After the BAIID has been installed in the motor vehicle, the installer shall verify that the BAIID is functioning properly and shall have the BAIID permittee or MDDP offender use the BAIID to start the vehicle to ensure that he or she is familiar with the operation of the BAIID. At that same time, the installer shall verify that the camera is operational and that a reference image of the BAIID permittee or MDDP offender has been taken;
- 7) The installer shall restore a motor vehicle to its original condition when a BAIID is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent;

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- 8) When the installer is also providing monitoring and other services for the BAIID after installation, the installer shall perform all of the duties that are associated with service after the installation and that are required by this Section of a BAIID provider. These duties shall include, but are not limited to, completing all monitoring reports and/or mailing in the appropriate portion of the BAIID to the BAIID provider, making notification of any evidence of tampering or circumvention, and recalibrating BAIIDs whenever they are brought in for service or monitoring;
 - 9) The installer shall not install a BAIID on any vehicle that does not have an operable horn, but shall advise the BAIID permittee or MDDP offender to have the vehicle's horn repaired before installation can occur.
- k) Suspension and Decertification of BAIID Providers. The Secretary may suspend or decertify a BAIID provider from providing BAIID services in Illinois. The Secretary shall provide written notification to the BAIID provider regarding any violation of this Section that may lead to suspension or decertification. ~~decertifying action.~~ The BAIID provider will be given a 30 day opportunity to come into compliance. The BAIID provider shall respond in writing to the Secretary regarding the course of corrective action. If the course of corrective action is deemed unacceptable by the Secretary, or if there are recurring instances of the violations that led to the notices~~same decertifying action~~ following the corrective action, the Secretary may decertify the BAIID provider from providing services in Illinois or suspend the BAIID provider from performing any new installations for a period of 3 months. The following are considered actions warranting suspension or decertification:
- 1) Failure to submit monitor reports in a timely manner, as provided in subsections (h)(9) and (h)(10). If the Secretary finds, through investigation, that the BAIID permittee or MDDP offender did take the vehicle with the installed BAIID to the BAIID provider, or sent the appropriate portion of the BAIID to the BAIID provider for a monitor report in a timely manner, a request for the monitor report shall be sent to the BAIID provider. If the information is not received within 30 days, the BAIID provider will be given a 3 month suspension from providing new installations in Illinois. Three occurrences within a 12 month period will result in decertification;

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- 2) Failure to maintain liability insurance as required;
- 3) Failure to install certified BAIIDs within the time requirements of this Subpart D;
- 4) Failure to comply with all of the duties and obligations contained in this Subpart D;
- 5) Failure to provide BAIID permittees or MDDP offenders with correct information regarding the requirements of this Subpart D;
- 6) Failure to submit a required surcharge to the Secretary for deposit in the Indigent BAIID Fund as required in IVC Section 6-206.1 ~~of the IVC~~ and Section 1001.444 of this Part. If the amount in dispute is not resolved within the above 30 day period, the BAIID provider shall be decertified unless the BAIID provider submits, within the 30 day period, a written request to review the amount in dispute to the BAIID Division. The dispute will then be resolved according to the terms of the contract entered into between the BAIID provider and the Secretary;
- 7) Failure to work with BAIID permittees or MDDP offenders in a professional manner. Complaints from BAIID permittees and MDDP offenders will be recorded. Repeated complaints determined by the Secretary to be valid or clear violations of the program requirements set forth in this Section shall result in decertification;
- 8) Failure to provide installations in a workmanlike manner, as set forth in this Section, and within the requirements of the manufacturer;
- 9) Installing BAIIDs not certified by the Secretary;
- 10) Failure to report installations and deinstallations to the Secretary within 7 days;
- 11) Failure to maintain and upgrade calibration equipment, BAIIDs and cameras;
- 12) Failure to provide services to indigent MDDP offenders;

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- 13) Failure to provide trained installers or installations that are not in compliance with subsection (j)(2);
 - 14) Failure to inform the Secretary of suspension or decertification from service in another jurisdiction within 30 days;
 - 15) Failure to notify the Secretary of any BAIID installer or service center that is no longer installing or servicing BAIIDS for the provider;
 - 16) Wiring the BAIID for circumvention or creating a circumventing apparatus for the BAIID permittee or MDDP offender;
 - 17) Giving information to a BAIID permittee or MDDP offender that results in or could result in the BAIID being circumvented;
 - 18) Failing to use or make secure or appropriate wiring connections as specified in this Section;
 - 19) Installing a BAIID in a vehicle that does not have an operable horn;
 - 20) Failing to maintain the calibration equipment and solutions as specified in this Section;
 - 21) Invalidation of an installer's Illinois driver's license;
 - 22) Failure to meet any of the requirements of this Section or other applicable administrative rules or statutes.
- 1) Notification of Decertification or Decision Not to Recertify. Upon a decision not to recertify a BAIID provider, or upon decertification of a BAIID or the decertification of or the cessation of the operation of a BAIID provider, the Secretary shall notify in writing all affected BAIID permittees or MDDP offenders. The notification shall be sent not less than 30 days after the decision or, if the BAIID provider requests a formal administrative hearing within that 30 day period to review the decision, notification shall not be sent until the entry of a final order of the hearing officer upholding the decision~~of the decertification of the BAIID or the decertification of or the cessation of the operation of a BAIID provider.~~

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- m) Designation of Installation Sites
- 1) Each BAIID provider shall be responsible for establishing installation sites within the State to service BAIID permittees and MDDP offenders, or to provide mobile installations as provided in [subsection Section 1001.442](#)(n);
 - 2) The Secretary shall monitor the location of installation sites throughout Illinois. If the Secretary determines that any place in Illinois is not within 75 miles of an installation site, the Secretary shall randomly select one of the certified BAIID providers and require that BAIID provider to establish an installation site or provide mobile installations in the unserved area. If a second or subsequent area of Illinois is determined not to be within 75 miles of an installation site, the Secretary shall randomly select a BAIID provider other than the one selected previously and require that BAIID provider to establish an installation site or provide mobile installations in the unserved area. As a condition of being certified by the Secretary, BAIID providers must agree to take assignments to unserved areas pursuant to this subsection (m)(2).
- n) Mobile Installation Sites
- 1) A BAIID provider may install BAIIDs at locations other than fixed, permanent installation sites.
 - 2) All provisions in this Section, as well as Sections 1001.441 and 1001.444, are hereby made applicable to mobile installers and mobile installations, except for those provisions that by their nature can have no application to mobile installers and installations.
 - 3) At the installation location, the installer must have a copy of the permittee's/offender's request to have a BAIID installed and show it to the permittee/offender upon request.
 - 4) A provider may, but is not required to, provide an identification card for mobile installers that includes, but is not limited to, the name of the installer and the provider for which the installer works. The identification card may also contain a photo of the installer.

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- 5) Providers shall provide the Secretary with a schedule of mobile installs 24 hours before the install occurs. The schedule shall contain the name and address of the permittee/offender and the location where the install will occur. The Secretary reserves the right to attend and inspect mobile installations.
- o) An applicant whose application for certification or recertification as a BAID provider has been denied, or a BAID provider who has been suspended or decertified, shall have the right to have that decision reviewed at a formal administrative hearing. In the case of a decision not to recertify or to suspend or decertify, that decision shall not be implemented until at least 30 days after the notice of the decision has been sent to the applicant or provider or, if the applicant or provider requests a hearing within that 30 day period, until the entry of a final order of the hearing officer upholding the decision. The hearings held under this Subpart D shall be conducted in accordance with all of the rights, privileges, and procedures set forth in Subpart A. A request for a hearing to contest a decision to deny certification or recertification or to decertify must be in writing and must be sent to one of the following locations:
- 1) Office of the Secretary of State, Department of Administrative Hearings, 17 North State Street, Suite 1200, Chicago, Illinois 60602, 312/793-3722;
- 2) Office of the Secretary of State, Department of Administrative Hearings, Michael J. Howlett Building, Room 207, Springfield, Illinois 62756, 217/524-0124.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.460 Requests for Modification of Revocations and Suspensions

- a) No Rescission. Revocations and suspensions will not be rescinded, except as provided by law or rule. Mandatory revocations and suspensions cannot be reduced or modified in any way, except as provided in subsections (e) and (g).
- b) Modification Limited. Suspension periods are set by Department of Driver Services rule (see 92 Ill. Adm. Code 1040) to apply equally to all persons.
- c) Modification Defined; Disqualifying Factors. For purposes of this Section, modification means that a discretionary revocation may be reduced to a 12 month

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suspension, a reduction in the length of a suspension, or the termination of a suspension on or by a specific date, or as soon as the termination can be processed by the Secretary of State. The following factors disqualify a petitioner from being considered for modification:

- 1) Prior fatal or Type A injury collisions with a disposition (either court supervision or conviction) for a citation issued in conjunction with or as a result of the collisions, within 2 years prior to the date of the hearing. For purposes of this subsection (c)(1), a "Type A Injury" is as defined in IVC Section 11-501.6(g);
 - 2) A prior suspension under the Illinois Safety Responsibility Law [625 ILCS 5/Ch. 7] within 2 years prior to the date of the hearing;
 - 3) A disposition for any moving violations within 6 months prior to the date of the hearing;
 - 4) A revocation or suspension of driving privileges for any moving violations within 5 years prior to the date of the hearing;
 - 5) The record of the proceeding contains credible evidence that the petitioner's conduct, for which his or her driving privileges are suspended or revoked, resulted in the petitioner being charged with a felony.
- db) Factors Considered in Petitions for Modification of Discretionary Revocations and Suspensions. ~~Early Termination of Suspensions.~~ Modification may be granted for good cause shown. "Good cause" means that the petitioner has the burden of showing why an exception should be made to serving the full term of a revocation or suspension. If the petitioner shows good cause, then consideration
Consideration for modification~~early termination of suspension~~ may be given to a petitioner under the following conditions listed in this subsection, but the petitioner also is allowed to submit other considerations for modification.:
- 1) No serious accidents on past record, as defined by Sections ~~6-205(a) and (b) and 6-206(a)~~ of the Code.
 - 2) No violations for at least 6 months, and no prior revocations or suspensions on the petitioner's driving record.

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- 1)3) Extent of ~~Petitioner's Culpability~~petitioner's culpability. The Secretary will consider the petitioner's intent, knowledge, conduct and role in the facts of the event that resulted in the revocation or suspension of his or her driving privileges, and the attitude exhibited by the petitioner prior to and/or at the hearing.
- A) In regard to a suspension entered pursuant to IVC Section 6-206(a)9, this means that the petitioner is able to present credible evidence that he or she did not have a specific intent to provide false information on an application for a driver's license or driving permit.
- B) In regard to a suspension entered pursuant to IVC Section 6-206(a)10, this means that the petitioner is able to provide credible evidence that he or she did not use alcohol or other drugs and that there was no reasonable potential for the petitioner to use alcohol or other drugs while in the possession of a driver's license or identification card issued to another person. Furthermore, the petitioner must be able to show a credible and legitimate reason for being in possession of someone else's driver's license or identification card.
- C) In regard to a suspension entered pursuant to IVC Section 6-206(a)14, this means that the petitioner is able to present credible evidence that he or she has cooperated with law enforcement authorities in the investigation, apprehension and/or prosecution of persons for violations of the Illinois Vehicle Code, particularly those related to underaged drinking or the possession, display, use, attempted use, distribution or manufacture of fraudulent or fictitious driver's licenses, permits or identification cards not issued to the petitioner.
- 2) The seriousness of the offense and the petitioner's attitude (acceptance of responsibility, expressions of genuine remorse, etc.).
- 3) The petitioner must be able to demonstrate, by clear and convincing evidence, that he or she is at low risk of repeating his or her behavior in the future. The Secretary reserves the discretion to require the petitioner to satisfy the requirements of this Subpart D if there is evidence that the

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petitioner may be a user of alcohol or any other drugs to a degree that renders the petitioner incapable of safely driving a motor vehicle, as a condition of modifying the suspension or averting a cancellation of the petitioner's driving privileges;

- 4) The early termination of a suspension will be considered when, in addition to satisfying the other conditions of this subsection (d), the petitioner also provides a compelling justification or mitigating circumstances that warrant the early termination.
 - 4) ~~The extent to which a petitioner is able to present credible evidence that he/she has cooperated with law enforcement authorities in the investigation, apprehension, and prosecution of persons for violations of the Illinois Vehicle Code, particularly those related to: underaged drinking; the possession, display, use, attempted use, distribution or manufacture of fraudulent or fictitious driver's licenses, permits, or identification cards; and the possession, display, fraudulent use, attempted fraudulent use, or distribution of driver's licenses, permits, or identification cards not issued to the petitioner.~~
- e) Rescission, Termination or Modification of Revocations Entered Pursuant to IVC Section 6-205(a)16.
- 1) Petitions to rescind, terminate or modify a revocation entered pursuant to IVC Section 6-205(a)16 are considered at a formal hearing (see 625 ILCS 5/2-118);
 - 2) In order for a revocation to be rescinded, the petitioner must prove that his or her conduct was not the proximate cause of the death;
 - 3) The Secretary will apply the criteria in subsections (c) and (d) in deciding whether to modify or terminate a revocation;
 - 4) Modification or termination will not be granted unless the petitioner presents a certificate of completion of any driver remedial or rehabilitative program.
- e) ~~No Reduction or Modification. Mandatory revocations and suspensions cannot be reduced or modified in any way.~~

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- f) Limitations on the Terms of Modification of Discretionary Revocations and Discretionary Suspensions. A discretionary revocation may only be reduced to a 12 month suspension. ~~The period of a discretionary suspension may be reduced for good cause shown.~~ However, a discretionary revocation shall not be reduced to a 12 month suspension and then the suspension reduced. A discretionary suspension may be reduced by no more than 6 months, unless it is terminated. A discretionary suspension shall be terminated only under the most compelling circumstances and in the interest of fairness and justice, except as provided in subsection (g). ~~Factors to consider include prior revocations or suspensions (suspensions under the Illinois Safety Responsibility Law [625 ILCS 5/Ch. 7] and Sections 6-306.3 and 13A-112 of the Code notwithstanding), and the seriousness of the offenses. The petitioner must demonstrate that he/she is a low risk for repeating his/her behavior in the future. Other factors may be considered by the hearing officer.~~
- g) Credit for Out-of-State or Out-of-state and Military Offenses. Credit may be given to Illinois licensed drivers if they commit an offense or engage in conduct outside the State of Illinois or on a military base that results in revocation or suspension of their out-of-state or military base driver's license and driving privileges and that is entered prior to their Illinois driver's license being suspended or revoked pursuant to IVC Section 6-206(a)(6) or (a)(24) for the same or a substantially similar offense. In order to be eligible to receive credit for the time spent suspended or revoked out-of-state or on a military base prior to being suspended or revoked in Illinois, the petitioner must demonstrate either that the prior suspension or revocation created a previous undue hardship as it pertains to hardships recognized under this Part or that the petitioner resided temporarily in the other state or military base prior to his/her Illinois driver's license being suspended or revoked in Illinois ~~petitioners whose Illinois driving privileges have been suspended or revoked pursuant to Sections 6-203.1, 6-206(a)6, or 6-514 of the Code for an out-of-state implied consent suspension, conviction, or disqualification for an offense that, if committed in Illinois, would be grounds for suspension or revocation, and whose driving privileges were suspended or revoked in that state or, if the petitioner is a member of the armed forces at the time of the offense and his/her Illinois driving privileges have been suspended or revoked pursuant to Sections 6-206(a)6 or (a)24 of the Code, if the petitioner's military installation driving privileges were suspended or revoked as a result of his/her arrest or conviction for such an offense. The petitioner must also demonstrate that the suspension or revocation created an undue hardship affecting~~

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~~his/her ability to go to work and perform daily tasks, in that state. The~~Such credit shall be given against the Illinois suspension or revocation for the same length of time actually served on the out-of-state or military suspension or revocation prior to the effective date of the Illinois suspension or revocation. A discretionary revocation will be modified to a suspension and terminated early, or the date of eligibility for ~~full~~ reinstatement of Illinois driving privileges shall be advanced.

- f) ~~Modifications Limited. Suspension periods are set by rule (see 92 Ill. Adm. Code 1040) of the Department of Driver Services to apply equally to all persons. Modifications in any way should be granted in only limited cases. This procedure should be used rarely and the reasons should be fully documented on the record.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.465 Cancellation of Driving Privileges; Hearing to Contest and Show Cause Hearing

- a) 14 Day Notice of Cancellation or Denial. The Secretary of State reserves the discretion to enter an order cancelling or denying the driving privileges of any person or petitioner, pursuant to IVC Sections 6-103, 6-108, 6-207 and/or 6-201(a), if the Secretary obtains specific, credible evidence that gives reasonable grounds to believe that the person or petitioner presents an imminent threat to the public safety and welfare or is a user of alcohol or any other drug to a degree that renders the person incapable of safely driving a motor vehicle (see Section 6-103.4), or is otherwise not in compliance with the rules of the Secretary. The cancellation or denial will be effective 14 days after a letter of notification and the Order of Cancellation or Denial is sent to the petitioner or person whose driving privileges are being cancelled. The Order of Cancellation or Denial will state the grounds for the cancellation and inform the petitioner or person of his or her right to contest the Order.
- 1) If a petition to contest is received or postmarked prior to the effective date of the Order of Cancellation or Denial, the cancellation shall be stayed pending the outcome of the hearing to contest.
 - 2) If a petition is received and filed within 60 days after the effective date of the Order of Cancellation or Denial, the cancellation shall remain in effect pending the outcome of the hearing.

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- 3) If a petition to contest is received more than 60 days after the effective date of the Order of Cancellation or Denial, then the Order of Cancellation or Denial shall remain in effect and a hearing to contest shall not be granted.
- b) Show Cause Hearing. The Secretary of State reserves the discretion to require any person or petitioner to show cause why his or her driving privileges should not be cancelled or denied, pursuant to IVC Sections 6-103, 6-108, 6-207 and/or 6-201(a), if the Secretary obtains specific, credible evidence that gives reasonable grounds to believe that the person or petitioner may present an imminent threat to the public safety and welfare or may be a user of alcohol or any other drug to a degree that renders the person incapable of safely driving a motor vehicle (see IVC Section 6-103.4), or might otherwise not be in compliance with the rules of the Secretary.
- 1) The person or petitioner will be issued a Notice to Show Cause, at his or her last known address, in the manner provided by statute and the rules of the Secretary of State. The Notice will specify the time, date and location of the hearing at which the person or petitioner will be required to show cause.
- 2) The failure of the person or petitioner to respond to the Notice to Show Cause will be processed as a default and will result in the entry of an Order of Cancellation.
- c) Alcohol/Drug Related Cases. If the proposed cancellation or denial is based upon evidence that the person or petitioner may be a user of alcohol or any other drug to a degree that renders that person or petitioner incapable of safely driving a motor vehicle, he or she must satisfy the requirements of this Subpart D in order for the cancellation to be terminated or to be issued any further driving relief (see IVC Section 6-103.4);
- d) All hearings conducted pursuant to this Section shall be conducted as formal hearings under IVC Section 2-118.

(Source: Added at 39 Ill. Reg. _____, effective _____)

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;

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PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS**Section 1001.660 Alcohol and Drug Education and Awareness Program**

- a) Prior to consideration of the issuance of an RDP, any one whose driving privileges and driver's license are suspended under [IVC Section 11-501.8](#) ~~of the Code~~ must complete the Secretary of State alcohol/drug education awareness program (program), and successfully complete a questionnaire prepared by the Secretary of State.
- b) The program content will be set out in a Secretary of State publication (publication) which shall include, but not be limited to, information regarding the following areas:
 - 1) The Zero Tolerance law and its effect upon driving privileges;
 - 2) The DUI law and its effect upon driving privileges;
 - 3) Other laws relating to the use/possession of alcohol by those under the age of ~~twenty-one~~ (21);
 - 4) Alcohol as a drug;
 - 5) Effects of alcohol and drugs on drivers, with emphasis on the youthful driver;
 - 6) Social processes that influence drinking;
 - 7) Physiological and pharmacological effects of alcohol and other drugs including their residual impairment on normal levels of driving performance;
 - 8) Statistics regarding crashes involving alcohol/drugs;
 - 9) Prevention of alcohol/drug related problems;
 - 10) Other areas deemed appropriate.

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- c) The publication may be obtained from the Secretary of State website or only by contacting the Secretary of State, Department of Administrative Hearings, in advance of the hearing. The publication will be sent to the petitioner, who must review it prior to any hearing for an RDP.
- d) Prior to the hearing for an RDP, the petitioner will be required to complete a questionnaire. It will contain questions regarding information contained in the publication, and any other information deemed appropriate by the Secretary. The questions forming the questionnaire will be selected from a pool of questions, and will be changed from time to time. The petitioner must answer seventy-five percent (75%) of the questions correctly in order to successfully complete the questionnaire.
- e) Driving relief will not be granted until the petitioner successfully completes the questionnaire. If the petitioner does not successfully complete it, the petitioner must review the publication and may retake the questionnaire no sooner than the following day.
- f) Once the petitioner successfully completes the questionnaire, the hearing for the RDP will proceed as in any other hearing for an RDP.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1001.670 Petitions for Restricted Driving Permits

- a) Investigative Evaluation Required. Notwithstanding other provisions of this Part, petitioners~~Petitioners~~ who apply for an RDP~~a restricted driving permit~~ pursuant to IVC Section 11-501.8(e) of the Code must submit to an investigative alcohol/drug evaluation, as defined in Section 1001.410 of this Part, as part of the Secretary's investigative process, when the evidence shows that:
 - 1) the petitioner, on any occasion, submitted to a chemical test or preliminary breath test and registered an alcohol concentration between 0.04 and 0.08₂ or failed a test for the presence of other drugs; or
 - 2) the petitioner may be a user of alcohol or any other drug to a degree which renders him/her incapable of safely driving a motor vehicle (see IVC Section 6-103.4 ~~of the Code~~); or.

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- 3) the petitioner has multiple zero tolerance suspensions on his or her driving record (regardless of whether the petitioner took or refused the tests); or
 - 4) the petitioner has a previous DUI disposition on his or her driving record, including one reported by the PDPS.
- b) Uniform Report Required. Petitioners who apply for an RDPa-restricted driving permit pursuant to of IVC Section 11-501.8(e) of the Code must submit to an alcohol/drug evaluation uniform report, as defined in Section 1001.410 of this Part, as part of the Secretary's investigative process, when the evidence shows that:
- 1) the petitioner, on any occasion, submitted to a chemical test or preliminary breath test and registered an alcohol concentration of 0.08 or more, or failed a test for the presence of other drugs; or
 - 2) the petitioner's driving record reflects a DUI disposition, as defined in Section 1001.400 of this Part; or
 - 3) the petitioner has multiple zero tolerance suspensions on his or her driving record (regardless of whether the petitioner took or refused the tests); or
 - 4) the petitioner has a previous DUI disposition on his or her driving record, including one reported by the PDPS.
- c) Rehabilitative Activity Required; Waiver. The petitioner is required to complete any recommended and/or required rehabilitative activity that pertains to the evaluation's classification of his/her use/abuse of alcohol/drugs or provide a written waiver thereof, prior to the issuance of any restricted driving permit.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Reference for Rules in Administrative Hearings under Sections 2-110(d) and 3-410 of the Nursing Home Care Act
- 2) Code Citation: 77 Ill. Adm. Code 430
- 3) Section Number: 430.10 Adopted Action: Repealed
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Repealer: August 7, 2015
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: February 6, 2015; 39 Ill. Reg. 1985
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: The Department is repealing Part 430 because it has only one remaining Section, the provisions of which are already covered in the Nursing Home Care Act and in the rule, Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
- 16) Information and questions regarding these adopted repealer shall be directed to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

Elizabeth Paton
Assistant General Counsel
Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Blood Labeling Code
- 2) Code Citation: 77 Ill. Adm. Code 460
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
460.10	Repealed
460.100	Repealed
460.110	Repealed
460.120	Repealed
460.130	Repealed
460.140	Repealed
460.150	Repealed
460.410	Repealed
460.500	Repealed
- 4) Statutory Authority: Blood Labeling Act [210 ILCS 20]
- 5) Effective Date of Repealer: August 7, 2015
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: February 26, 2016; 39 Ill. Reg. 1990
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 15) Summary and Purpose of Repealer: The Blood Labeling Code is being repealed because its statutory authority, the Blood Labeling Act, was repealed by PA 87-1269. Blood labeling is now regulated under the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].
- 16) Information and questions regarding this adopted repealer shall be directed to:

Elizabeth Paton
Assistant General Counsel
Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Illinois Blood Bank Code
- 2) Code Citation: 77 Ill. Adm. Code 490
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
490.10	Repealed
490.20	Repealed
490.30	Repealed
490.40	Repealed
490.210	Repealed
490.220	Repealed
490.230	Repealed
490.310	Repealed
490.320	Repealed
490.330	Repealed
490.410	Repealed
490.420	Repealed
490.430	Repealed
490.440	Repealed
490.510	Repealed
490.520	Repealed
490.610	Repealed
490.620	Repealed
490.710	Repealed
490.720	Repealed
490.730	Repealed
490.740	Repealed
490.750	Repealed
490.760	Repealed
490.770	Repealed
490.780	Repealed
490.790	Repealed
490.810	Repealed
490.820	Repealed
490.830	Repealed
490.840	Repealed
490.910	Repealed
490.APPENDIX A	
490.EXHIBIT A	Repealed

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490.EXHIBIT B Repealed

- 4) Statutory Authority: Illinois Blood Bank [210 ILCS 10]
- 5) Effective Date of Repealer: August 7, 2015
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: March 6, 2015; 39 Ill. Reg. 3355
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: The Department is repealing the Illinois Blood Bank Code because its statutory authority, the Illinois Blood Bank Act, was repealed by PA 87-1269. Blood banks are now regulated under the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].
- 16) Information and questions regarding this adopted repealer shall be directed to:

Elizabeth Paton
Assistant General Counsel
Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761

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email: dph.rules@illinois.gov

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Structural Pest Control Code
- 2) Code Citation: 77 Ill. Adm. Code 830
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
830.10	Amendment
830.240	Amendment
830.270	Amendment
830.410	Amendment
830.710	Amendment
830.820	Amendment
830.1000	Amendment
- 4) Statutory Authority: Structural Pest Control Act [225 ILCS 235]
- 5) Effective Date of Rule: August 7, 2015
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 39 Ill. Reg. 2010; February 6, 2015.
- 10) Has JCAR issued a State of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: Typographical, grammatical and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: This rulemaking updates the Structural Pest Control Code to fix grammatical errors, better define certain terms, insert a few clarifications, provide for reasonable classification of violations and ensure accurate information is provided to property owners. This rulemaking clarifies language pertinent to violations being calculated on a per-day basis; transfers the violation of operating without a license from a Type A to Type B fine schedule, and transfers failure to provide information upon request from a Type C to Type B fine. The rulemaking also requires pest control companies to retain employee training records until the employee is no longer employed, or becomes certified. The service records of certified technicians will no longer require the review of another certified technician, and the rule provides means by which certified technicians review electronic (non-paper) records of uncertified technicians. The rule requires the estimated amount of pesticide recorded on service records to be accurate to within 10 percent of the actual amount of pesticide applied. Pest control companies will be required to provide a copy of the service record (required by the statute) upon request of the owner, manager or tenant of the property serviced. Accurate diagrams will be required to be a part of service records for services in which termiticide is applied.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
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The full text of the Adopted Amendments begin on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 0: PEST CONTROLPART 830
STRUCTURAL PEST CONTROL CODESUBPART A: GENERAL PROVISIONS

Section

- 830.10 Definitions
- 830.20 Referenced Materials

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Section

- 830.100 License Application for Commercial Structural Pest Control Business Location
- 830.110 Registration Application for Non-Commercial Structural Pest Control Location
- 830.120 Application for Examination as a Certified Structural Pest Control Technician
- 830.130 Re-examination Applications
- 830.140 Application of Certified Technicians for Examination in Other Sub-categories
- 830.150 Processing (Repealed)
- 830.160 Approved Applications (Repealed)
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- 830.180 License and Registration Renewals
- 830.190 Change of Business Ownership
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- 830.240 Change of Certified Structural Pest Control Technician at Place of Employment
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AUTHORITY: Implementing and authorized by the Structural Pest Control Act [225 ILCS 235], Illinois Pesticide Act [415 ILCS 60] and Sections 3.2 and 14.6 of the Environmental Protection Act [415 ILCS 5/3.2 and 14.6].

SOURCE: Adopted at 2 Ill. Reg. 19, p. 159, effective May 3, 1978; codified at 8 Ill. Reg. 18492; emergency amendment at 10 Ill. Reg. 17812, effective September 28, 1986, for a maximum of 150 days; emergency amendment expired on February 24, 1987; amended at 11 Ill. Reg. 7736, effective April 15, 1987; amended at 13 Ill. Reg. 2090, effective February 3, 1989; emergency amendments at 14 Ill. Reg. 1036, effective December 22, 1989, for a maximum of 150 days; emergency amendment expired on May 21, 1990; amended at 14 Ill. Reg. 12889, effective August 1, 1990; amended at 16 Ill. Reg. 11612, effective July 6, 1992; amended at 18 Ill. Reg. 14404, effective September 15, 1994; amended at 21 Ill. Reg. 15010, effective November 10, 1997; amended at 23 Ill. Reg. 5620, effective May 1, 1999; amended at 25 Ill. Reg. 8303, effective June 25, 2001; amended at 37 Ill. Reg. 3288, effective March 1, 2013; amended at 39 Ill. Reg. 11821, effective August 7, 2015.

SUBPART A: GENERAL PROVISIONS**Section 830.10 Definitions**

In addition to the definitions contained in the Structural Pest Control Act ~~[225 ILCS 235]~~, the following definitions, ~~when used herein~~, shall apply:

"Act" means the Structural Pest Control Act ~~[225 ILCS 235]~~.

"Active ingredient" means any ingredient ~~that~~ which will prevent, destroy, repel, control or mitigate a pest.

"Applicant" means any person making an application for a license, registration, examination or certification.

"Back flow preventer or vacuum breaker device" means a device, approved by the

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Illinois Plumbing Code, ~~(77 Ill. Adm. Code 890)~~ used to prevent backflow or backsiphonage of contaminated water or liquid into a water supply system.

"College or university course in related field" means three semester hours or four quarter hours of a college course in biological sciences, physics or chemistry.

"Community Water System" means a public water system ~~that~~^{which} serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year. (Section 9(a)(1) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/9(a)(1)]~~)

"Crack and crevice treatment" means the application of small amounts of a pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, junction or switch boxes, where insects may be present.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Existing storage unit" means a storage unit that was in operation or for which ~~there was commencement of~~ construction began on or before the effective date of a minimum setback zone, maximum setback zone, or regulated recharge ~~area~~^{regulation} affecting the storage unit.

~~"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.~~

"File a renewal application" means the process of completing the renewal form and submitting it to the Department along with the applicable renewal fee as set forth in Section 9 of the Act. Evidence shall be ~~and evidence~~ either attached to the renewal form or on file with the Department that indicates ~~which would indicate~~ that the license, certification or registration renewal requirements of Sections 4(e) and 6 of the Act and Sections 830.180 and 830.200 ~~of this Part~~ have been met.

"Food area" means an area where food is handled, received, packaged, held, processed, prepared, or served.

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"Groundwater" means underground water ~~that~~~~which~~ occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3(g) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/3(g)]~~)

"Insurance company authorized to transact business" means an insurance company ~~that~~~~which~~ has been issued a Certificate of Authority by the Director of the Department of Insurance.

"Licensee" means any person who has a valid commercial structural pest control business license.

"Method" means any action or procedure used to determine the presence or absence of a pest.

"Pest control course" means an educational program ~~that~~~~which~~ addresses the basic theoretical or practical knowledge of pesticides and their application, approved by the Department pursuant to Subpart D ~~of this Part~~, and is equivalent to six months ~~of~~ experience for original certification.

"Pest control specialist" means a person who has a degree from a recognized college or university in one or more fields related to structural pest control ~~and~~/or pesticides or has a specialized area of interest pertaining to chemical manufacturing ~~and~~/or research, chemistry, entomology, or environmental sanitation and engineering.

"Pest control training seminar" means a recertification training program ~~that~~~~which~~ provides the technical and legal aspects of present structural pest control technology, approved by the Department pursuant to Subpart E ~~of this Part~~.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3(h) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/3(h)]~~)

"Private Water System" means any supply ~~that~~~~which~~ provides water for drinking, culinary, and sanitary purposes and serves an owner-occupied single family dwelling. (Section 9(a)(5) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/9(a)(5)]~~)

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"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term "public water system" includes any collection, treatment, storage or distribution facilities under control of the operator of ~~the~~such system and used primarily in connection with ~~the~~such system and any collection or pretreatment storage facilities not under ~~the operator's~~such control ~~that~~which are used primarily in connection with ~~the~~such system. (Section 9(a)(6) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/9(a)(6)]~~)

"Purchasing group" means a purchaser of group insurance ~~that~~which group has registered with the Director of the Department of Insurance.

"Recognized college or university" means an educational institution ~~that~~which has been recognized or approved by the Board of Higher Education, or equivalent, in the State in which it is located; ~~and~~/or an educational institution accredited by a regional accrediting association recognized by the Council on Post Secondary Accreditation. In either instance, the college or university must be authorized to confer a degree in the fields of Biological Sciences, Entomology, Zoology; or related fields.

"Registrant" means any person who has a valid non-commercial structural pest control registration.

"Regulated Recharge Area" means a compact geographic area, as determined by the ~~Illinois Pollution Control~~Illinois Pollution Control Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3(j) of the Illinois Groundwater Protection Act ~~[415 ILCS 55/3(j)]~~)

"Risk retention group" means an insurance company incorporated and licensed in one of the states of the United States and registered with the Director of the Department of Insurance.

"Secondary containment structure" means any structure used to contain liquid pesticides and prevent runoff or leaching into the groundwater.

"Service container" means any non-food container ~~used~~utilized to temporarily to

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hold, store or transport a pesticide concentrate or registered ready-to-use product other than the original labeled container provided by the manufacturer, the measuring device or the application device.

"Setback zone" means a geographic area established under the Environmental Protection Act ~~that~~[\[415 ILCS 5\]](#) ~~which~~, for the purposes of Subpart I ~~of this Part~~, contains a potable water supply well and a storage unit, having a continuous boundary within which certain prohibitions or regulations for groundwater protection are applicable.

"Signal word" means a word or phrase found prominently displayed on the pesticide label ~~that~~[which](#) offers an indication of the toxicity and potential danger of a pesticide.

"Storage unit" means an area, structure, or any other mechanism used to store or accumulate pesticides for commercial application purposes.

"To use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator of the [US Environmental Protection Agency \(USEPA\)](#) has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator of the USEPA has determined that the use of the pesticide against other pests would cause [an](#) unreasonable adverse effect on the environment;

employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling;

any use of a pesticide in ~~compliance~~[conformance](#) with Section 5, 18, or 24

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of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) ~~(7 USC 136(ee))~~; or

any use of a pesticide in a manner that the Administrator of the USEPA determines to be consistent with the purpose of FIFRA.

"Treatment period" means the period of time necessary for a room or area to remain closed to unauthorized individuals ~~in order~~ to allow an effective treatment and subsequent drying or settling of the pesticide in accordance with label directions or, in ~~the their~~ absence of label directions, with; manufacturer's recommendations.

~~"USEPA" means the United States Environmental Protection Agency.~~

"Water well" means any excavation, except a monitoring well, that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of ~~the such~~ excavation is for the location, diversion, artificial recharge, or acquisition of groundwater, but the term does not include an excavation made to obtain or prospect oil, natural gas, minerals or products of mining; or quarrying or inserting media to re-pressure an oil- or natural gas-bearing formation; or for storing petroleum, natural gas or other products; or for observation or any other purpose in connection with developing or operating a gas storage project.

"Work Site" means and includes any location at which pesticides are handled, mixed, stored, or applied.

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

SUBPART B: LICENSURE AND CERTIFICATION REQUIREMENTS

Section 830.240 Change of Certified Structural Pest Control Technician at Place of Employment

- a) Each Illinois certified structural pest control technician shall ~~be required to~~ notify the Department in writing within 15 days ~~after of~~ any change in home address or employment. The notification shall also include the date of employment termination at the previous business location, if applicable. A new structural pest control technician certificate will be issued with the technician's new home

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address, provided that all copies of the old certificate are submitted to the Department along with the appropriate fee specified in Section 9(a~~f~~) of the Act.

- b) When a licensee or registrant loses the services of the only certified structural pest control technician employed at the business location, the licensee or registrant shall notify the Department in writing within seven~~7~~ days after~~of~~ the certified technician's departure. In addition:
- 1) All commercial structural pest control business operations shall cease effective the date of the certified structural pest control technician's departure and shall not resume until a replacement technician has been employed;
 - 2) All non-commercial structural pest control businesses using~~utilizing~~ restricted pesticides shall cease application with restricted pesticides effective the date of the certified structural pest control technician's departure and shall not resume until a replacement technician has been employed; and
 - 3) The licensee or registrant shall notify the Department in writing within seven~~7~~ days after another certified structural pest control technician certified in accordance with Section 5 of the Act and this Part has been employed at the business location. The~~Said~~ notification shall also list the certified structural pest control technician's starting date of employment.

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

Section 830.270 Supervision of a Non-certified Technician

- a) Each non-certified technician using any pesticide under the Act for commercial structural pest control shall be under the supervision of a certified structural pest control technician employed at the business location, who shall be responsible for the non-certified technician's pest control activities.
- b) Each non-certified technician using any restricted pesticide under the~~this~~ Act for non-commercial structural pest control shall be under the supervision of a certified structural pest control technician employed at the business location, whose~~he~~ shall be responsible for the non-certified technician's pest control activities.

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- c) Any technician providing supervision for the use of restricted pesticides must be certified in the subcategory for which the technician is providing supervision.
- d) The physical presence of the supervising certified structural pest control technician is required in the immediate area of the work site ~~when~~:
- 1) When required by the pesticide labeling; or ~~if 2)~~ the non-certified technician has not had the minimum on-the-job training with a supervising certified structural pest control technician. At a minimum, on-the-job training requires at least two ~~previous~~-supervised uses of ~~each the same~~ type of a pesticide applied at each type of a similar work site as verified by records kept in accordance with Section 830.820 ~~of this Part~~; and
 - 23) ~~In~~ other situations ~~where~~ required by the Act or this Part.
- e) If the physical presence of the supervising certified structural pest control technician is not required at the work site as specified in subsection Section 830.270(d) above, then:
- 1) ~~A~~ copy of the label for the pesticide used shall be available for immediate review by the non-certified technician; ~~and~~
 - 2) ~~The~~ supervising certified structural pest control technician ~~shall~~ must be able to have direct voice contact, or immediate voice contact by telephone or radio, with the non-certified technician at all times during the application; and
 - 3) ~~The~~ supervising certified structural pest control technician shall be able to be physically on the work site within one hour ~~if needed should the need arise~~.
- f) ~~If the~~ In instances where labeling instructions on the pesticide label provide more stringent requirements regarding direct supervision than those listed in this Section above, the more stringent requirements shall be followed.
- g) In all cases of supervision, the certified structural pest control technician shall give the non-certified technician any site- or pesticide-specific instructions necessary to prevent the misuse of a pesticide.

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(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

SUBPART C: EXAMINATIONS

Section 830.410 Examinations

- a) Examinations for certification as structural pest control technicians are divided into two classifications: General Standards Examination (General Use Pesticides) and Sub-category Examinations (Restricted Use Pesticides).
- b) General Standards (General Use Pesticides). All applicants shall take the~~The~~ general standards examination. The examination will~~shall be written by all applicants and shall~~ test each applicant's general knowledge in the following areas: label and labeling comprehension; safe handling, storage and disposal of pesticides; environmental awareness; types of equipment; application techniques; pests and pesticide formulations; protective clothing and equipment; symptoms of pesticide poisoning; and Illinois laws and regulations related to structural pest control. Individuals who successfully pass the general standards examination shall be entitled to use or oversee the use of any general use pesticide in accordance with the Act or this Part, provided that~~providing~~ the individual meets the requirements of Section 4 of the Act.
- c) Sub-category Examinations (Restricted Use Pesticides). Any individual who satisfactorily passes the general standards examination and meets the requirements ~~as set forth~~ in Section 5B of the Act may take a sub-category examination. The individual shall~~must~~ satisfactorily complete~~be examined in~~ at least one ~~(1)~~ of the eight ~~(8)~~ sub-category examinations listed in subsections~~subsections (c)(4)(A) through (H) of this subsection~~ with a minimum score of 70 percent before the applicant will be awarded a technician's~~technicians's~~ certificate to use or oversee the use of restricted pesticides within the appropriate sub-category.
 - 1) Any person using or overseeing the use of restricted pesticides while performing commercial structural pest control shall be examined in each sub-category listed in subsections (4)(A) through (D) and (H) ~~of this subsection~~ for which the said person performs structural pest control.
 - 2) Any person using or overseeing the use of restricted pesticides while

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engaging in non-commercial structural pest control shall be examined in one of the sub-categories listed in ~~subsection (c)(4)(A) through (H) of this subsection~~ subsections (c)(4)(E) through (G) for which ~~the said~~ person performs structural pest control on behalf of the registrant.

- 3) ~~A person who is~~ Persons who are examined in ~~the~~ the sub-categories ~~listed in subsections (c)(4)(E) through (G)"E" through "G" of this Section~~ listed in subsections (c)(4)(E) through (G)"E" through "G" of this Section shall not engage in commercial structural pest control using restricted use pesticides unless he or she is ~~they are~~ examined in one or more of the sub-categories listed in subsections ~~(c)(4)(A) through (D) of this subsection~~ (c)(4)(A) through (D) and ~~has~~ have complied with the licensure requirements for commercial structural pest control locations ~~as found~~ in the Act and this Part.
- 4) The sub-category examinations for restricted pesticides are as follows:
 - A) Insects, Rodents and Other Pests – includes the use or supervision of the use of restricted pesticides other than fumigants; for the prevention and control of:
 - (i) insects, mites, ticks and other related pests, but does not include termites and other wood destroying organisms; ~~and~~
 - (ii) rats and mice; and
 - (iii) upon consent and permit from the Illinois Department of Conservation, protected mammals (bats, squirrels, skunks, etc.) and other protected animals (snakes, etc.).
 - B) Termites and Other Wood-Destroying Organisms – includes the use or supervision of the use of restricted pesticides other than fumigants; in, on or under a structure, for the prevention or control of termites and other wood-destroying organisms.
 - C) Birds – includes the use or supervision of the use of restricted pesticides for the prevention and control of pest birds such as ~~the~~ English house sparrows, pigeons and starlings in, on or around structures.
 - D) Fumigation – includes the use or supervision of the use of

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restricted fumigants for the control of pests in commercial and non-commercial pest control locations, including, but not limited to, rail cars, trucks, ships, airplanes, docks and warehouses, and involves general, spot, tarpaulin chamber, vehicle and in-transit fumigation.

- E) Food Processing, Manufacturing and Storage – includes the use or supervision of the use of restricted pesticides, excluding fumigants, for the prevention and control of insect and rodent pests associated with the manufacturing, processing, packaging or holding of food products for ultimate consumption by man or animals ~~when~~ ~~where~~ ~~the~~ ~~such~~ products are not served or offered for sale directly to the ultimate consumer.
- F) Institutional and Multi-unit Residential Housing – includes the use or supervision of the use of restricted pesticides excluding fumigants for the prevention and control of insect (excluding termites and other wood destroying organisms) and rodent pests in, on or around nursing homes, hospitals, public housing facilities, state institutions and similar structures.
- G) Public Health Pest Control – includes State, ~~federal~~ ~~Federal~~ or other ~~government~~ ~~governmental~~ employees using or supervising the use of restricted pesticides in public health programs for the prevention and control of pests having medical and public health importance other than mosquitoes.
- H) Wood Products Pest Control – includes the use of restricted use pesticides (i.e., creosote, pentachlorophenol and inorganic arsenical formulations) to control or prevent wood degradation by wood-destroying organisms, which include, but are not limited to, insects, and the fungi or bacteria ~~that~~ ~~which~~ cause surface molding, surface staining, sap staining, brown rot, white rot, dry rot and soft rot. Certification in this sub-category is limited to those individuals who work in non-commercial wood treatment plants, or for commercial businesses whose function is to treat existing structures or structural components.

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

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SUBPART F: HEARINGS AND ADMINISTRATIVE FINES

Section 830.710 Administrative Fines

- a) The Department is authorized to assess administrative civil fines against a licensee, registrant, certified [structural pest control](#) technician, public school, licensed day care center or other person for violations of the Act or this Part. ~~Fines~~[These fines](#) may be assessed in addition to, or in lieu of, license, registration, or certification suspensions and revocations.
- b) The amount of a fine shall be determined in accordance with the Schedule of Administrative Civil Fines in Table A and the following criteria:
 - 1) A violation, for the purposes of this Section, will be considered to mean a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this or any other state, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with Section 14 of the Act.
 - 2) For purposes of determining a second violation, an initial violation means the first violation of a particular Section of the Act or this Part within the previous three years. [Each day in which the same violation exists shall constitute a separate violation.](#)
 - 3) Each location shall be considered separately with regard to violation determinations under this Part.
 - 4) A Type A violation is any one of the following:
 - A) Failure to observe the general safety precautions of Section 830.800.
 - B) Failure to abide by any stop sale or stop use order issued under Section 830.860.
 - C) Failure to notify the Department of any incident or accident involving pesticides as required in Section 830.870.

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- D) Use of a pesticide in a manner inconsistent with its labeling directions (Section 830.810).
- E) Performing a pesticide application or inspection in a faulty, careless, or negligent manner (Section 13(d) of the Act).
- ~~F) Performing structural pest control in violation of the license and registration requirements of Section 4(a) or 4(b) of the Act.~~
- FG) Performing structural pest control in violation of the certification requirements of Sections 4(c) and 5 of the Act and Sections 830.230 and 830.270.
- GH) Performing structural pest control in violation of an order issued by the Director ~~or designee~~ (Sections 10(f), 13(a) and 14 of the Act).
- HI) Failure to use methods or materials suitable for structural pest control (Section 13(c) of the Act).
- IJ) *Performing structural pest control utilizing or authorizing the use or sale of pesticides ~~that~~ which are in violation of the FIFRA or the Illinois Pesticide Act.* (Section 13(i) of the Act)
- JK) Failure to notify employees and parents and guardians of students of a public school or licensed day care center two business days before a pesticide application as specified in Section 10.3 of the Act.
- 5) A Type B violation is any one of the following:
- A) Failure to cease pest control operations when ~~there is an interruption in~~ insurance coverage is interrupted (Section 830.260(d)).
- B) Making or reporting false, misleading, or fraudulent information. (See Section 13(c) of the Act.)
- C) *Fraudulent advertising or solicitations relating to structural pest control.* (Section 13(f) of the Act)

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- D) Allowing a license, permit, registration or certification to be used by another person, in violation of Sections 4(f) and 6(b) of the Act.
 - E) Using the certification of a structural pest control technician to secure or maintain a license or registration when that individual is not actively employed at the business location, in violation of Section 6(b) of the Act.
 - F) *Aiding or abetting a person to evade any provision of the Act.* (Section 13(g) of the Act)
 - G) *Impersonating any federal, State, county, or city official.* (Section 13(h) of the Act)
 - H) Failure to allow the Department to perform inspections and investigations in accordance with Section 10(g) and (h) of the Act.
 - I) Failure to comply with a written notice issued in accordance with Section 830.860.
 - J) Performing structural pest control in violation of the license and registration requirements of Section 4(a) or 4(b) of the Act.
 - K) Failure to provide information to the Department upon request in accordance with Section 13(e) of the Act.
- 6) A Type C violation is any one of the following:
- A) Failure to observe the pesticide storage requirements of Section 830.830.
 - B) Failure to observe the service vehicle requirements of Section 830.840.
 - C) Failure to observe the pesticide storage practices of Section 830.850.
 - D) Failure to establish and maintain insurance in accordance with

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Section 9 of the Act and Sections 830.250 and 830.260 and excluding subsection (b)(5)(A) ~~of this Section.~~

- E) Failure to establish and maintain records of pesticide applications in accordance with Section 830.820.
- F) Failure of a licensee or registrant to provide written notification to the Department concerning the loss of the licensee's or registrant's only certified structural pest control technician and subsequent shutdown in accordance with Section 8 of the Act and Section 830.240(b).
- G) Failure of a certified structural pest control technician to provide written notification to the Department in accordance with Section 830.240(a).
- H) Failure to renew a license or registration in accordance with Section 4(e) of the Act and Section 830.180.
- I) Failure to renew a structural pest control technician certification in accordance with Section 6 of the Act and Section 830.200.
- J) Failure to notify the Department of a change in business ownership in accordance with Section 830.190.
- K) Failure to perform the notification and license replacement procedures in accordance with Section 4(d) of the Act when there is a change in business location.
- ~~L) Failure to provide information to the Department upon request in accordance with Section 13(e) of the Act.~~
- LM) Failure to display or provide a current license, registration and certification in accordance with Section 830.310.
- MN) Failure to observe the groundwater protection requirements in accordance with Subpart I ~~of this Part.~~
- NO) Failure to follow and observe the integrated pest management

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requirements of Section 10.2 of the Act.

- O) Failure to provide copies of applicable service records to a property's owner, manager or tenant as specified in Section 830.820(f).
- c) Any penalty not paid within 60 days after notice from the Department ~~will~~shall be submitted to the Attorney General's Office for collection. Failure to pay a penalty shall also be grounds for suspension or revocation of a license, permit, registration, or certification.

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section 830.820 Records

- a) Each commercial structural pest control business location shall ~~be required to~~ keep records of all pesticide applications for a minimum period of two years. On-the-job training records, in accordance with Section 830.270, shall be kept for as long as the employee is employed or until the employee becomes certified.
- b) Each non-commercial structural pest control business location shall ~~be required to~~ keep records of all restricted pesticide applications at the location for a minimum period of two years. On-the-job training records, in accordance with Section 830.270, shall be kept for as long as the employee is employed or until the employee becomes certified.
- c) The certified structural pest control technician responsible for using pesticides, or overseeing the use of pesticides by non-certified personnel, shall provide ~~documentation~~written verification (i.e., ~~name, signature and~~ certification number and dates of service) of review ~~offer~~ all pesticide records for services performed by uncertified technicians to determine compliance with this Section.
- d) Records of restricted pesticide usage shall be kept separate from those pertaining to general pesticide usage, and both shall include the following:
- 1) Name and address of customer or site of application;

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- 2) Name of technician applying the pesticide;
- 3) Date and time of the application;
- 4) Target pest or purpose for the application;
- 5) Pesticide use recorded in the following manner:
 - A) Brand or common name;
 - B) USEPA Registration Number;
 - C) Percentage of active ingredient in the finished product; and
 - D) Estimates accurate to within 10 percent~~An estimate~~ of the amount of each~~the~~ finished product used;:-
- 6) For termite control treatments, a diagram showing foundation types and accurate dimensions of all portions of the structures being treated.
- e) All records except those for the week prior to the inspection shall be kept at the business location and be available for inspection by the Department in accordance with the Act, this Part and the Electronic Commerce Security Act.
- f) Structural pest control businesses shall provide copies of service records upon request of a serviced property's current owner, manager or tenant.

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

SUBPART I: GROUNDWATER PROTECTION

Section 830.1000 Scope and Applicability

- a) This Subpart shall apply to commercial structural pest control business locations that have pesticide storage units located as specified in subsection (a)(1), (2) or (3) ~~of this Section~~ and have certified their intent in writing to the Department to be subject to ~~the provisions of~~ Section 14.6 of the Environmental Protection Act ~~[415 ILCS 5/14.6]~~ for regulation by the Department in accordance with this Part. ~~Certification for businesses that have pesticide storage units meeting the~~

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~~following specifications shall be submitted to the Department by February 1, 1998, or within 90 days after the effective date of an ordinance or regulation establishing or expanding a maximum setback zone or regulated recharge area, pursuant to Section 14.3 or 17.3 of the Environmental Protection Act:~~

- 1) A storage unit located within a potable water supply well setback zone;
- 2) An existing storage unit located within a community water supply well regulated recharge area not to exceed 2,500 feet from the wellhead; or
- 3) A new storage unit located within a community water supply well regulated recharge area, unless prohibited by the Illinois Pollution Control Board.

b) ~~Certification for businesses that have pesticide storage units located as described in subsection (a)(1), (2) or (3) shall be submitted to the Department within 90 days after the effective date of an ordinance or regulation establishing a maximum setback zone or regulated recharge area, pursuant to Section 14.3 or 17.3 of the Environmental Protection Act.~~

cb) Commercial structural pest control business locations that have storage units located as specified in subsection (a)(1), (2) or (3) ~~of this Section~~ but have not certified their intent in writing to the Department to be subject to ~~the provisions of~~ Section 14.6 of the Environmental Protection Act shall be subject to Sections the provisions of Section 14.4 and 14.5 of the Environmental Protection Act ~~[415 ILCS 5/14.4 and 14.5]~~ and ~~the regulations promulgated by the~~ Illinois Pollution Control Board rules at 35 Ill. Adm. Code 615, 616 and 670 (Existing Activities in a Setback Zone or Regulated Recharge Area, New Activities in a Setback Zone or Regulated Recharge Area, or Minimal Hazard Certification) ~~(and administered by the Illinois Environmental Protection Agency), or the regulations promulgated by the Illinois Department of Agriculture rules at 8 Ill. Adm. Code 257 (Cooperative Groundwater Protection Program) Agriculture at 8 Ill. Adm. Code 257.~~

(Source: Amended at 39 Ill. Reg. 11821, effective August 7, 2015)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Entries and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1312
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1312.260	Repealed
1312.265	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: August 10, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 5347; April 10, 2015.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The subsection that allowed horses of sperate ownership to be uncoupled with Steward permission has been removed from the rule.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this rule replace any emergency rule currently in effect? Yes; 39 Ill. Reg. 5514
- 14) Are there any other rulemakings pending in this Part? No
- 15) Summary and Purpose of Rulemaking: This rule permits racetracks that conduct harness racing to uncouple same owner entries in any harness race. The result will be larger field sizes, increased betting, and greater revenue to the Board.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS RACING BOARD

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Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 5-700
Chicago IL 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1312
ENTRIES AND DECLARATIONS

Section	
1312.10	Entries
1312.20	Penalties
1312.30	Sale of Horse With Entrance Due
1312.40	Receipt of Entries
1312.50	Postage Meter
1312.55	Limitation on Purse Increases or Reductions
1312.60	Deviation From Published Conditions
1312.70	When Ineligible Horse Races
1312.80	Transfer of Ineligible Horse
1312.90	Withholding Purse When Ineligible Horse Races
1312.100	Early Closing and Late Closing Events
1312.110	Subsequent Payments
1312.120	Trust Funds
1312.130	Stable Space
1312.140	Limitation on Conditions
1312.150	Penalties
1312.160	Excess Entry Fees
1312.170	Entries and Starters Required
1312.180	Elimination Heats
1312.190	Elimination Plans
1312.200	Overnight Events
1312.210	Entry Box and Drawing of Horses
1312.220	Substitute Races
1312.230	Drivers
1312.240	Declaration and Withdrawing
1312.250	Qualifying Races
1312.260	Entry or Coupling (Repealed)
1312.265	Uncoupled Entries
1312.270	Husband-Wife Entries
1312.280	Also Eligibles

ILLINOIS RACING BOARD

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1312.290	Preference
1312.300	Stewards' List
1312.310	Medical Reasons for Ineligibility

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

SOURCE: Published in Rules and Regulations of Harness Racing (original date not cited in publication); amended July 12, 1974, filed July 22, 1974; amended February 13, 1976, filed March 1, 1976; amended September 19, 1975, filed October 2, 1975; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; amended at 5 Ill. Reg. 1498, effective February 2, 1981; codified at 5 Ill. Reg. 10934; amended at 15 Ill. Reg. 2727, effective February 5, 1991; amended at 24 Ill. Reg. 7390, effective May 1, 2000; amended at 25 Ill. Reg. 6390, effective May 1, 2001; amended at 27 Ill. Reg. 5030, effective March 7, 2003; amended at 31 Ill. Reg. 8526, effective June 1, 2007; amended at 36 Ill. Reg. 16340, effective November 1, 2012; emergency amendment at 39 Ill. Reg. 5514, effective April 1, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 11844, effective August 10, 2015.

Section 1312.260 Entry or Coupling (Repealed)

~~When starters in a race include two or more horses owned or trained by the same stable or by the same management, or same person, they shall be coupled as an "entry", and a wager on one horse in the "entry" shall be a wager on all horses in the "entry". However, the uncoupling of entries with common owners shall be permitted in stakes races with purses of \$100,000 or more. If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.~~

(Source: Repealed at 39 Ill. Reg. 11844, effective August 10, 2015)

Section 1312.265 Uncoupled Entries

Two or more horses owned wholly, or in part, by the same person or persons, shall be uncoupled wagering interests in any race. A wager on one horse in the "entry" shall be a wager on all horses in the "entry". If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot. Same owner entries will have least preference in overfilled races. Any entry of separate ownership may be uncoupled with permission of the stewards. Such permission

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~~shall not be granted with respect to quinellas and exactas unless fields of six betting interests (five if there is a late scratch) are created.~~

(Source: Amended at 39 Ill. Reg. 11844, effective August 10, 2015)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of August 4, 2015 through August 10, 2015. Rulemakings are scheduled for review at the Committee's September 15, 2015 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>
9/16/15	<u>Department of Human Services</u> , Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)	6/5/15 39 Ill. Reg. 7763	9/15/15

PROCLAMATIONS

2015-210

**Gubernatorial Disaster Proclamation
Presented this 31st day of July 2015**

WHEREAS, beginning June 7, 2015, and continuing throughout the remainder of June and July, an extended weather pattern of severe storms befell Illinois generating heavy rainfall, flash flooding, tornadoes, and straight-line winds and causing widespread river flooding; and

WHEREAS, according to the National Weather Service, Illinois recorded its wettest June on record with a statewide average of 9.37 inches of precipitation, with some counties alone receiving up to 17 inches of rain; and

WHEREAS, the high precipitation totals resulted in flooding on several rivers in the State, most notably the Illinois River, which remained above flood stage for several weeks, causing residential and business flooding and resulting in costly emergency protective measures and permanent infrastructure damages for local governments; and

WHEREAS, the continuous heavy rainfall throughout the State during this period also caused flash flooding as a result of the oversaturated soil triggered by the record precipitation; and

WHEREAS, the flash flooding resulted in one fatality and significant property damage to homes and businesses, as well as impacts to transportation, especially washed-out roadways; and

WHEREAS, the severe weather pattern also spawned tornadoes and straight-line winds that left large debris fields in their wakes, affecting homeowners, businesses, and local governments; and

WHEREAS, based on reports received by the Illinois Emergency Management Agency, local resources and capabilities have been exhausted and State resources are needed to respond to and recover from the effects of the severe storms; and

WHEREAS, these conditions provide legal justification under section 7 of the Illinois Emergency Management Act for the issuance of a proclamation of disaster;

NOW, THEREFORE, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, Bruce Rauner, Governor of the State of Illinois, hereby proclaim as follows:

Section 1: Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare Adams, Alexander, Brown, Calhoun, Cass, Coles, Fulton, Greene, Grundy,

PROCLAMATIONS

Iroquois, Jersey, Mason, Monroe, Morgan, Peoria, Pike, Randolph, Richland, Schuyler, Scott, Tazewell, Vermilion, and Warren Counties as disaster areas.

Section 2: *The Illinois Emergency Management Agency is directed to continue implementation of the State Emergency Operations Plan, as it has been doing since June 7, and to coordinate State resources to support local governments in disaster response and recovery operations.*

Section 3: *To aid with emergency purchases necessary for response and other emergency powers as authorized by the Illinois Emergency Management Agency Act, the provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster are suspended to the extent they are not required by federal law.*

Section 4: *This proclamation can facilitate a request for Federal disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.*

Section 5: *This proclamation shall be effective immediately and remain in effect for 30 days.*

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 34 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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