

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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TABLE OF CONTENTS

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PROPOSED RULES

OFFICE OF THE STATE FIRE MARSHAL

Administrative Requirements for Underground Storage Tanks and the Storage,
Transportation, Sale and Use of Petroleum and Other Regulated Substances
41 Ill. Adm. Code 176.....14895

SECRETARY OF STATE

Procedures and Standards
92 Ill. Adm. Code 1001.....14916

ADOPTED RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Permanency Planning
89 Ill. Adm. Code 315.....14934

Administrative Case Reviews and Court Hearings
89 Ill. Adm. Code 316.....14942

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF

High Risk Home Loans
38 Ill. Adm. Code 345.....14946

Licensing and Regulation of Pawn Brokers
38 Ill. Adm. Code 360.....14957

The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail
Technology Act of 1985
68 Ill. Adm. Code 1175.....14983

Real Estate Timeshare Act of 1999
68 Ill. Adm. Code 1451.....15044

OFFICE OF THE STATE FIRE MARSHAL

Pyrotechnic Distributer and Operator Licensing Rules
41 Ill. Adm. Code 230.....15064

POLLUTION CONTROL BOARD

Introduction
35 Ill. Adm. Code 301.....15071

Water Use Designations and Site-Specific Water Quality Standards
35 Ill. Adm. Code 303.....15078

RACING BOARD, ILLINOIS

Ownership, Partnership, and Stable Name
11 Ill. Adm. Code 1409.....15088

REVENUE, DEPARTMENT OF

Income Tax
86 Ill. Adm. Code 100.....15092

TORTURE INQUIRY AND RELIEF COMMISSION

Organization, Public Information, Procedures, and Rulemaking
2 Ill. Adm. Code 3500.....15125

Policy, Hearings, and Forms 20 Ill. Adm. Code 2000.....	15142
EMERGENCY RULES	
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF Illinois Cares Rx Program 89 Ill. Adm. Code 119.....	15163
PEREMPTORY RULES	
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF Pay Plan 80 Ill. Adm. Code 310.....	15178
NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS	
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF Medical Payment 89 Ill. Adm. Code 140.....	15200
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA	
JOINT COMMITTEE ON ADMINISTRATIVE RULES September Agenda.....	15202
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES Second Notices Received.....	15208

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011

22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011
24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 176
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
176.430	Amendment
176.600	New Section
176.605	New Section
176.610	New Section
176.615	New Section
176.620	New Section
176.625	New Section
176.630	New Section
176.635	New Section
176.640	New Section
176.645	New Section
176.650	New Section
176.655	New Section
176.660	New Section
176.665	New Section
- 4) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements a federal requirement, pursuant to the federal Energy Policy Act of 2005, that State underground storage tank (UST) system regulatory programs receiving federal funding require and implement operator training programs for personnel at underground storage tank facilities. Under the federal requirements, three classes of operators must be trained in specified areas, and retraining is required not less than once every two years and when a notice of noncompliance with UST technical requirements is issued. The federal retraining requirement requires facilities to keep UST records on site if they wish to avoid having to retrain personnel in response to a Notice of Violation. Under the federal requirements, unmanned facilities must also designate class A, B, and C operators, though one person properly trained can fulfill multiple roles. Records of training completion and emergency response plans and phone numbers must be kept at the facility.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: Portions of the federal Energy Policy Act of 2005, Public Law 109-58, a USEPA guidance document entitled Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005 (USEPA, Aug. 2007), and USEPA underground storage tank regulations at 40 CFR 280 were reviewed and in part relied upon in proposing these amendatory rules. These are posted on the USEPA web site at www.epa.gov/oust and are also available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL. 62703
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking could have a minor impact on local government to the extent that local government units might own or operate an underground storage tank system.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/557-3131
Facsimile: 217/524-9284

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could have a minor impact on those small businesses, not for profit entities and small municipalities that own and operate UST systems.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: Manned UST facilities will have to maintain records demonstrating compliance with the operator training requirements at their facilities. Unmanned UST facilities must make records demonstrating compliance available within 30 minutes or by the time the OSFM inspector completes his or her regular audit inspection, whichever is later, if not posted at the facility.
- C) Types of professional skills necessary for compliance: Owners and operators of USTs must ensure that all UST facilities have assigned Class A, B and C operators that have been trained in accordance with the operator training requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009 and January 2010

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 176

ADMINISTRATIVE REQUIREMENTS FOR UNDERGROUND STORAGE TANKS AND
THE STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES

SUBPART A: DEFINITIONS

Section
176.100 Definitions

SUBPART B: FINANCIAL ASSURANCE

Section
176.200 Definitions
176.205 Applicability
176.210 Amount
176.215 Mechanisms of Financial Responsibility
176.220 Proof of Financial Responsibility
176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator
176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance
176.235 Reporting by Owner or Operator
176.240 Recordkeeping
176.245 Release from the Requirements
176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section
176.300 Reporting of Suspected Releases
176.310 Release Investigation Reporting and Site Assessment
176.320 Initial Response and Reporting of Confirmed Releases
176.330 Procedures for Site Assessments
176.340 Reporting and Cleanup of Spills and Overfills
176.350 Initial Release Abatement Measures
176.360 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

USTs

SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section

176.400	Delegation of Authority to Enforce UST Rules and Regulations
176.410	General Requirement to Maintain All Equipment
176.420	Requirement that UST Components Be Third Party Listed
176.430	Reporting and Recordkeeping
176.440	Notification Requirements for Purposes of UST Registration
176.450	UST Registration Fees
176.460	Pre-'74 and Heating Oil USTs
176.470	Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section

176.500	Definitions
176.505	Enforcement Action
176.510	Grounds and Time for Appeal
176.515	Notice of Hearing
176.520	Continuances
176.525	Appearances
176.530	Service of Papers and Computation of Time
176.535	Stipulations
176.540	Evidence
176.545	Official Notice
176.550	Authority of Hearing Officer
176.555	Default
176.560	Post-Hearing Submissions
176.565	Transcripts
176.570	Final Order
176.575	License Suspension or Revocation and Assessment of Fines Against a Contractor
176.580	Assessment of Penalties
176.585	Subpoena – Fees and Mileage of Witnesses
176.590	Paper Hearings

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: OPERATOR TRAININGSection

<u>176.600</u>	<u>Purpose</u>
<u>176.605</u>	<u>Scope</u>
<u>176.610</u>	<u>Definitions</u>
<u>176.615</u>	<u>Class A, B and C Operator Classifications</u>
<u>176.620</u>	<u>Training</u>
<u>176.625</u>	<u>Minimum Training Requirements</u>
<u>176.630</u>	<u>Examination Frequency</u>
<u>176.635</u>	<u>Approval of Required Training and Examination Location</u>
<u>176.640</u>	<u>Examination Fees</u>
<u>176.645</u>	<u>Recordkeeping</u>
<u>176.650</u>	<u>Out-of-Compliance Retraining</u>
<u>176.655</u>	<u>Written Facility Operations and Maintenance Plan and Class A, B and C Operator Responsibilities</u>
<u>176.660</u>	<u>Violations</u>

176.APPENDIX A Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15].

SOURCE: Adopted at 34 Ill. Reg. 13485, effective September 2, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section 176.430 Reporting and Recordkeeping

- a) Reporting. Owners and operators must submit the following information to OSFM:
- 1) Notification for all USTs (Section 176.440);
 - 2) Certification of installation for USTs (Section 176.430(f));

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 3) Reports of all releases, including suspected releases (Section 176.300), spills and overfills (Section 176.340), and confirmed releases (Section 176.320);
 - 4) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, subpart F, incorporated by reference in 41 Ill. Adm. Code 174.210) when requested by OSFM;
 - 5) A notification related to removal or change-in-service (41 Ill. Adm. Code 175.820(d) and 175.830(a)(19));
 - 6) A pass/fail determination and notification (Section 176.330(c)) (to be submitted to OSFM within 45 days after the receipt of laboratory data in connection with a site assessment); and
 - 7) Proof of financial responsibility on an annual basis (Section 176.220).
- b) Recordkeeping. Owners and operators must maintain the following information for the life of the UST (unless a shorter or longer period is provided in this subsection (b) or by the applicable Section cited or by other OSFM rule):
- 1) Documentation of operation of corrosion protection equipment and methods (41 Ill. Adm. Code 175.500 and 175.510).
 - 2) Documentation of UST repairs (41 Ill. Adm. Code 175.700 and 175.710).
 - 3) All records required to show compliance with release detection requirements (41 Ill. Adm. Code 175.600 through 175.650), with all tank and piping precision test results kept for 2 years or at least until the next precision test, whichever is longer.
 - 4) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.
 - 5) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including schedules of required calibration and maintenance provided by the release detection equipment manufacturer.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 6) The results of any sampling, testing or monitoring not specified in subsections (a), (b), (f) and (g) of this Section.
- 7) Results of the site assessment conducted at removal or change-in-service (41 Ill. Adm. Code 175.800) and copies of the results of any other site assessment conducted pursuant to OSFM rules with all pass/fail determinations and notifications submitted to OSFM pursuant to Section 176.330.
- 8) Proof of financial responsibility submitted under Section 176.220.
- 9) Copies of all records submitted to OSFM under subsections (a), (f) and (g) of this Section.

| 10) [Copies of the records required by Sections 176.645 and 176.655.](#)

- c) Availability and Maintenance of Records. Owners or operators shall keep the records required in subsection (b) at the UST site or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via fax, email or other transfer of information. Financial responsibility records may be maintained at the owner or operator's principal place of business and shall be produced within 10 days after OSFM request.
- d) Owners or operators of unmanned sites will be given prior notification of inspection/audit of those sites.
- e) Failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag or revocation of a facility operating permit (green decal) for the tank or tanks or facility at issue (see 41 Ill. Adm. Code 177), prohibiting any further operation of the facility or further deposit of regulated substances into a tank subject to a red tag.
- f) Certification of UST Installation or Upgrade and Related Documentation
 - 1) Contractors shall certify, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, that:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- A) The installer has been certified or licensed by OSFM. If applicable, the contractor shall also certify that the installer has been certified by the tank and piping manufacturers.
 - B) The installation and/or upgrade has been performed in accordance with 41 Ill. Adm. Code 172 through 176.
 - C) All work listed in the manufacturer's installation checklist has been completed and submitted in accordance with this subsection (f), 41 Ill. Adm. Code 175.400 and 175.465, Section 176.420 (or compliance with applicable third-party standards or codes cited in OSFM rules as of the date of installation), and Section 176.440(f), if applicable.
- 2) Contractors shall complete the manufacturer's installation checklist for USTs, which shall be available at the time of final inspection. The owner and operator shall maintain a copy of the checklist on-site for the life of the UST.
 - 3) In lieu of the contractor's certification, an owner or operator may provide OSFM with a certification from a licensed professional engineer with education and experience in UST installation stating that the UST installation or upgrade was inspected by that engineer and that the UST installation or upgrade was properly installed in accordance with manufacturer's recommendations and OSFM rules.
 - 4) OSFM shall not issue a green decal pursuant to 41 Ill. Adm. Code 177.115 for the UST until OSFM has received the completed certification of UST installation or upgrade by the licensed contractor or the certification of proper installation or upgrade from a licensed professional engineer.
- g) Results from precision tank and piping testing, cathodic protection testing, and interior lining testing shall be handled as follows:
 - 1) All test results are to be issued to the facility and owner.
 - 2) Test results that fail must be reported to OSFM within 3 working days.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 3) All test results required due to Notice of Violation must be reported to OSFM within 3 working days.
- 4) All test results required to be submitted to OSFM must be submitted with a form provided by OSFM at www.state.il/OSFM/PetroChemSaf/home.htm, under "downloadable applications".

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART F: OPERATOR TRAININGSection 176.600 Purpose

The purpose of this Subpart is to set forth procedures for underground storage tank operator training and inspections and to determine when the training and inspections are required.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.605 Scope

UST operator training is a requirement that applies to all underground storage tank systems regulated under 41 Ill. Adm. Code 174, 175, 176 and 177 and 42 USC 82, subchapter IX, except those excluded from the definition of an underground storage tank system and thereby excluded from regulation by 41 Ill. Adm. Code 174.100.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.610 Definitions

"Certified Operator" means a Class A, B or C Operator who has completed all the training required under this Subpart for his or her particular operator training classification.

"Class A Operator" is someone who has primary responsibility to operate and maintain a UST. The Class A Operator's responsibilities often include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

"Class B Operator" is someone who implements applicable UST regulatory requirements and standards in the field, including the day-to-day aspects of UST operation, maintenance and recordkeeping at one or more UST facilities.

"Class C Operator" is an employee who is responsible for responding to alarms or other indications of emergencies caused by spills or releases from USTs. Not all employees of a UST facility are necessarily Class C Operators.

"Manned Facility" means a UST facility that has a responsible attendant present during all hours of operation.

"Notice of Violation" or "NOV" means a document issued by OSFM that is the first step in the OSFM enforcement process.

"Operator Training" means the training required under this Subpart.

"OSFM" means the Office of the State Fire Marshal.

"Third Party Provider" means an entity that provides online or other approved training and examinations for Class A, B and C Operators and issues the certificate of completion when the candidates taking the examinations have completed the training and passed the examination.

"Two-Year Anniversary Date" or "2-Year Anniversary Date" means the 2-year deadline for completion of repeat training in ordinary course, including continuing education, training and a general examination. This deadline is 2 years after the completion of regular training (see Section 176.615) or 2 years after the completion of out-of-compliance retraining (see Section 176.650), whichever is later, as shown by the most recent valid completion certificate.

"Unmanned Facility" means a UST facility that does not have a responsible attendant present during all hours of operation.

"UST" means underground storage tank system.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.615 Class A, B and C Operator Classifications

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

The owner of each UST or group of USTs at a facility must have a Class A, Class B and Class C Operator designated and shall ensure that each is trained in accordance with this Subpart. Separate individuals may be designated for one or more classes of operators, and each facility must designate one or more individuals for each operator class.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.620 Training

A Class A, Class B or Class C Operator satisfies the training requirements of this Subpart by completing both training and an examination as determined to be appropriate by OSFM. This may be internet, computer software, live or equivalent training and examination so long as the training and examination is approved by OSFM in advance under Section 176.635. All Class A, B and C Operators shall also complete continuing education and training requirements and a general examination once every 2 years, with the deadline for the completion of the training and examination to be no later than the 2-year anniversary date or the last retraining in response to an NOV, whichever is later. The first 2-year retraining deadline shall be August 8, 2014, or the 2-year date from the last retraining triggered by receipt of an NOV, whichever is later. Class A or Class B Operators may retrain Class C Operators so long as the training and examination administered to the Class C Operators has been approved in advance by OSFM and otherwise meets the requirements of Section 176.635 and this Part.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.625 Minimum Training Requirements

OSFM will approve an online training mechanism for Class A, Class B and Class C Operators to be implemented by OSFM approved third party providers. Training and related examinations under this Subpart shall cover and test for appropriate knowledge of Illinois UST regulations. Generally, Class A, B and C Operators will be trained in the following:

- a) For Class A Operators, subject matter shall include, but not be limited to, financial responsibility documentation requirements, notification requirements, release and suspected release reporting, temporary and permanent closure requirements, operator training requirements, and a general knowledge of UST requirements, including regulations relating to spill prevention, overfill prevention, release detection, corrosion protection, emergency response and product compatibility;

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- b) For Class B Operators, subject matter shall include, but not be limited to, components of UST systems, materials of UST components, methods of release detection and release prevention applied to UST components, reporting and recordkeeping requirements, operator training requirements, and the operation and maintenance requirements of UST that relate to spill prevention, overfill prevention, release detection, corrosion protection, emergency response and product compatibility; and
- c) For Class C Operators, subject matter shall include, but not be limited to, recommended responses to emergencies (such as, situations posing an immediate danger or threat to the public or to the environment requiring immediate action) spill alarms, releases from a UST, the locations and proper operation of emergency shutoff systems and the use of other emergency equipment.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.630 Examination Frequency

The owner of a facility must ensure that Class A and Class B Operators are trained within 30 days after assuming operation and maintenance responsibilities for a UST and that Class C Operators are trained before assuming responsibility involving emergency response. At no time may a UST operate without a validly-trained Class A Operator, Class B Operator and Class C Operator. Continuing education, training and a general examination regarding operator-specific subject matter shall take place once every 2 years, and evidence of completed retraining shall be available at the facility in accordance with Sections 176.645, 176.650 and 176.660. Retraining may also be required by OSFM pursuant to Section 176.650.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.635 Approval of Required Training and Examination Location

All training programs used to meet the operator training requirements must have prior written approval by OSFM. These programs must at least meet the criteria of this Subpart in order to be approved. These programs shall appropriately test the person being trained for knowledge of the relevant UST technical requirements, including those found at 41 Ill. Adm. Code 174, 175, 176 and 177. The provider must also demonstrate its ability to maintain and track test scores and maintain appropriate security. Upon approval, the training can be conducted multiple times at multiple locations. The approved training can include in-class, online, or hands-on training. Submission of an incomplete application may result in the denial of the application. If OSFM has

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

denied a training provider's application 3 times, the applicant shall not re-submit an application for a period of one year from the date of receipt of the third denial.

- a) Course approvals shall be valid for a period of 5 years. Applications must be submitted at least 120 days prior to the first scheduled date of training and at least 120 days prior to the expiration of the course approval. Applications for approval of training courses shall be on OSFM forms on 8½ by 11 sheets of paper or via electronic submission and contain:
- 1) a complete course outline, including:
 - A) a detailed description of subject matter, order of presentation, and amount of time scheduled for the course presentation, with a breakdown of time spent on each specific area of instruction;
 - B) a description of all training aids, devices and handouts;
 - C) a description of the test to be given at the conclusion of each training course, including:
 - i) procedures for conducting and grading the test (including a description of the hands-on practical demonstration of knowledge at the UST site, if applicable);
 - ii) the passing score for the training exam and any procedure for review of failing areas and retesting for any Class A, B or C Operator who fails to achieve an initial passing grade;
 - iii) the number of questions per topic identified in Section 176.625; and
 - iv) examples or a sampling of test questions;
 - D) one set of proposed training materials;
 - E) sample certificates;
 - F) the methodology for verifying participation and completion;

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- G) the anticipated number and locations for any classroom, hands-on or webinar course to be offered;
 - H) the name, address and phone number of the training provider and of the contact person;
 - I) the credentials of any classroom, hands-on or webinar instructors, including title, affiliation and summary of professional background (i.e., a curriculum vitae); and
 - J) a certification that the technology or methods to be presented in the training program will satisfy Illinois and federal laws.
- b) The minimum required passing score set by the training provider shall be at least 75%. The training provider must supply those individuals who successfully complete a training program with a certificate of training documenting the level of training received. Upon request, the training provider must submit individual test results and documents verifying training completion to OSFM. This information shall include student rosters, student information, test results and other information as may be requested by OSFM.
- c) Training providers will be required to apply for and receive written approval from OSFM for any modifications to approved training programs prior to their implementation. All training must reflect the existing State of Illinois requirements for the operation and maintenance of UST and must be updated for any Illinois statute or rule changes affecting operation and maintenance requirements. OSFM may review and propose revision to the entire training program at the time of any requested modification.
- d) Online and software courses shall possess reasonable per-slide and total course minimum time requirements to insure that trainees read the online materials.
- e) OSFM may periodically audit or review any training class, and the trainer shall allow a maximum of 2 OSFM employees to attend any training class on request without charge and without certification.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.640 Examination Fees

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

The UST facility owner or operator shall pay the approved provider a reasonable fee for online or other approved training and testing for Class A, Class B and Class C Operators.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.645 Recordkeeping

- a) The following records shall be maintained and readily available at each UST facility:
- 1) A list of the designated current Class A, Class B and Class C Operators for the UST facility (identified by facility number and address), including:
 - A) For each Class A, B and C Operator, records detailing the name, training classification (Class A, B or C or a combination), and date current completion certificate will expire; and
 - B) For Class A and Class B Operators who are not permanently onsite or who are assigned to more than one facility, telephone numbers to contact the Class A and B Operators;
 - 2) A copy of the current testing certificates for all current Class A, B and C Operators;
 - 3) A copy of the current Class C Operator instructions or procedures required by subsection (b); and
 - 4) A copy of the written UST facility operation and maintenance plan and all monthly inspection checklists used by the certified operators for the past 2 years pursuant to Section 176.655.
- b) The UST owner shall provide all Class C Operators with written instructions that include all of the following:
- _____ 1) Emergency response procedures, including:
 - A) procedures for overfill protection during delivery of regulated substances;

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- B) operation of emergency shut-off systems;
 - C) appropriate responses to all alarms;
 - D) reporting of leaks, spills and releases; and
 - E) site-specific emergency procedures, if any.
- 2) The name and other information needed for contacting appropriate parties if a leak, spill, release or alarm occurs.
- c) For unmanned facilities, the records identified in subsections (a) and (b) shall be maintained at the UST facility or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via facsimile, e-mail, hand delivery or other transfer of information.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.650 Out-of-Compliance Retraining

- a) Appropriate retraining, including both training and testing, is required for both Class A and Class B Operators of USTs determined by OSFM to be out of compliance by issuing an NOV pertaining to release detection, corrosion protection, spill and overflow, or financial responsibility, or for the failure to complete training and testing as required by this Subpart.
- b) Retraining required under this Section shall be completed within 60 days after issuance of the NOV indicating noncompliance.
- c) Evidence of completed retraining shall be at the UST facility and available for inspection within 60 days after issuance of the NOV indicating noncompliance. When the NOV pertains to a failure to complete the training and testing required by this Subpart, the owner must have evidence of completed training and testing at the facility and available for inspection within 30 calendar days after receipt of the NOV.

(Source: Added at 35 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section 176.655 Written Facility Operations and Maintenance Plan and Class A, B and C Operator Responsibilities

- a) At a manned facility, a Class A, Class B or Class C Operator must be onsite at all times. For unmanned facilities, emergency contact information for Class A, B and C Operators, including names and telephone numbers, shall be conspicuously posted at the facility unless a toll-free number for 24 hour dispatch to the facility has been prominently displayed at the facility. At both manned and unmanned facilities, the Class C Operator is responsible for responding to alarms or other indications of emergencies caused by spills or releases from USTs and shall be familiar with the written emergency response instructions and procedures for the facility.

- b) Monthly Inspections and Operations and Maintenance Plan. Each Class A or Class B Operator shall perform a monthly inspection of each storage tank system for which he or she is designated and shall record the results of each inspection on a checklist to be maintained with the facility records.
 - 1) At a minimum, monthly inspections shall be conducted and recorded on a checklist that details the inspection of the following:
 - A) Release detection methods, including monitoring systems and all associated sensors, checking that they are fully operational, for potential releases, for all required records, and whether UST facility staff and Class C Operators appropriately responded to all alarms and any conditions that might have indicated a release of a regulated substance;
 - B) The overall status of the UST, for alarms and unusual operating conditions that may indicate a release, and investigating and documenting same if it has not been reported as a suspected release under Subpart C;
 - C) Integrity of spill and overfill prevention and spill containment equipment and manholes (for cracks, holes or bulges), and for the presence of regulated substances, water or debris in the spill prevention equipment;

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- D) Dispensers, hoses, breakaways, hardware, visible product piping and dispenser sumps for the presence of regulated substances, water and debris;
 - E) All containment sumps, including those at the submersible junction sumps, remote fills, single-wall piping sumps, and at secondary containments, for visual damage to the sump, for the presence of regulated substances or any indication that a release may have occurred, and that these sumps are free of water, product and debris;
 - F) If an alarm condition has occurred since the last monthly inspection on any double-wall system, whether UST staff and Class C Operators appropriately responded, and, if necessary, whether the appropriate sumps were opened, inspected and cleaned, with the sensors placed back into operational position or status in such a manner as to detect a leak at the earliest possible time;
 - G) All cathodic protection (CP) systems are in place and operational and for the required voltage on any impressed current CP system being utilized;
 - H) All UST equipment including emergency shutoffs, for the presence or absence of visible damage to any UST component;
 - D) All required signs are fully visible and all communication systems in place and operational; and
 - J) All other daily, monthly and annual inspections, testing, reporting and records as required under 41 Ill. Adm. Code 174, 175 and 176.
- 2) UST facility owners and operators shall, in conjunction with their designated Class A and B Operators, adopt and implement a written operations and maintenance plan signed by both the owner and either a Class A or Class B Operator designated for the UST facility. The plan shall be kept at the facility for the life of the UST and shall be updated to reflect changes in the UST facility equipment and operations as they occur. The operations and maintenance plan shall be as specific as

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

possible for each facility. At a minimum, the operations and maintenance plan shall include the following:

- A) A detailed plan showing what inspections, operations, testing, maintenance and recordkeeping shall be done on a daily, monthly, quarterly and annual basis in accordance with OSFM rules.
 - B) A description of the manner in which UST facility owners and operators properly dispose of regulated substances spilled at the facility, including any water or soil removed from any part of the UST when there is any indication it might be or has been contaminated with a regulated substance.
 - C) The emergency procedures and instructions required under Section 176.645.
- c) The certified operators shall ensure that all inspections and testing, as outlined in the operations and maintenance plan and required by this Subpart, are properly performed. They shall also ensure that the work is performed by licensed contractors if required by OSFM rules.
 - d) The certified operators shall provide the UST facility owner and operator with a copy of each inspection checklist and alert the owner and operator to any condition that requires follow-up actions. The certified operator doing this shall date and initial the monthly inspection checklist, indicating when this information has been provided to the UST facility owner and operator.
 - e) No Class B Operator may be assigned to more than 50 facilities at the same time.
 - f) A Class A, B or C Operator shall not represent himself or herself as certified unless the person has a current valid certificate of training from an approved trainer.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 176.660 Violations

A facility may not operate after August 8, 2012 unless Class A, B and C Operators have been designated and trained for each UST that is being operated at each facility. Failure to comply

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

with this Subpart shall be sufficient reason for the summary revocation of the OSFM-issued green tag providing authority to operate an underground storage tank facility whose Class A, B and C Operators have not been designated and trained. Failure to remain in compliance with UST rules may also result in OSFM's issuance of a red tag for the tanks or facility at issue, prohibiting any further operation of the facility or further deposit of regulated substances into any tank subject to a red tag. An approved training and testing program may be decertified by OSFM in the event of provider fraud, misrepresentation, negligence or noncompliance with OSFM rules, or with an OSFM audit recommendation, in conducting the training or testing.

(Source: Added at 35 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3) Section Numbers: 1001.444 Proposed Action: Amendment
- 4) Statutory Authority: Illinois Vehicle Code [625 ILCS 5/6-206.1(g)]
- 5) Complete Description of the Subjects and Issues Involved: This amendment clarifies the conditions under which a Monitoring Device Driving Permit offender may be declared indigent for purposes of this rule, further defines the employment exemption, and modifies the penalties for tampering with or unauthorized circumvention of a Breath Alcohol Ignition Installation Device.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No.
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Brenda Glahn
Assistant General Counsel
Office of the General Counsel
298 Howlett Building
Springfield, IL 62756

217-785-3094

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

bglahn@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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 Providers Qualification Procedures and Responsibilities; Certification of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification 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
1001.470	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

Section

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1001.500	Applicability
1001.510	Definitions
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

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

1001.700	Applicability
1001.710	Definitions
1001.720	Organization of Motor Vehicle Review Board
1001.730	Motor Vehicle Review Board Meetings
1001.740	Board Fees
1001.750	Notice of Protest
1001.760	Hearing Procedures
1001.770	Conduct Of Protest Hearing
1001.780	Mandatory Settlement Conference
1001.785	Technical Issues
1001.790	Hearing Expenses; Attorney's Fees
1001.795	Invalidity

1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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 35 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 1001.444 Monitoring Device Driving Permit (MDDP) Provisions

- a) Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required
 - 1) The Secretary shall notify a first offender (MDDP offender), as defined in Section 11-500 of the IVC, that he or she will be issued an MDDP unless the Secretary receives, from the court of venue, an opt-out form, prescribed by the Secretary, that has been signed by the offender and filed with the court. The issuance of the MDDP shall be conditioned on the installation and use of a BAIID in any vehicle operated, as required by Section 6-206.1 of the IVC. Only BAIIDs certified by the Secretary under Section 1001.442 of this Part may be utilized. As provided in Section 6-206.1 of the IVC, an MDDP offender must pay a non-refundable fee in an amount equal to \$30 per month times the number of months or any portion of a month remaining on the statutory summary suspension at the time the Secretary issues the MDDP. No fee will be charged for any month in which the Secretary issues the MDDP on or after the 20th day of that month. This total, one time payment for each MDDP issued must be paid in advance and prior to the issuance of the MDDP. Payment must be submitted in the form of a money order, check or credit card charge (with a pre-approved card), made payable to the Secretary of State.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 2) Any MDDP holder whose summary suspension is extended or who is re-suspended as provided for in Section 6-206.1 and who applies for and obtains an extension or re-issuance of an MDDP, shall likewise be required to pay the non-refundable fee for the length of the period of extension or re-suspension under the same terms and conditions as stated in subsection (a)(1). Any such suspension will not be terminated until payment of any and all fees due under this Section is made.
- 3) Any MDDP offender whose driving privileges are otherwise suspended, revoked, cancelled or become otherwise invalid is not eligible to receive an MDDP.
- 4) Any MDDP shall be invalid and must be surrendered to the Secretary if an MDDP holder's driving privileges subsequently are suspended, revoked, cancelled or become otherwise invalid under any provision of the IVC, during the issuance period of the MDDP. This includes a conviction and subsequent revocation of driving privileges for the DUI arrest that resulted in the issuance of the MDDP. The MDDP offender may petition, at a formal hearing conducted pursuant to Section 2-118 of the IVC, for a restricted driving permit during the period of suspension, revocation, cancellation or invalidation, if available pursuant to the IVC. In order to obtain a restricted driving permit pursuant to this Section, the MDDP offender must also satisfy the other provisions of this Part. Further, should a restricted driving permit be granted, the MDDP offender may only operate vehicles in which a properly working BAIID has been installed and is subject to all of the provisions of the BAIID program.
- 5) Any MDDP holder whose MDDP is invalidated as provided in subsection (a)(4), except those MDDP holders cancelled under Section 6-206.1(c-1) of the IVC, may obtain another MDDP upon termination of the sanction that led to the invalidation as long as the offender is still eligible for an MDDP. The offender must notify the Secretary in writing and submit the statutory permit fee. Upon issuance of an MDDP, the MDDP holder is subject to all of the provisions of this Section.
- 6) The MDDP holder may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the Secretary's BAIID Division. This voluntary termination does not in any way affect any sanction imposed under this Section. An offender may

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

also resume participation by notifying the BAIID Division in writing, but may do so only once during the term of the suspension, extension or re-suspension due to a violation of the program.

- b) Compliance – Installation of BAIID/Notification to the Secretary
 - 1) The MDDP Holder. Upon the issuance of an MDDP under this Section, the Secretary shall make available a list of certified BAIID providers to the MDDP holder. The MDDP holder may operate the vehicle for 14 days from the issuance date stated on the MDDP without the BAIID installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the BAIID. Failure to comply with this requirement will result in the cancellation of the MDDP issued.
 - 2) The Installer/BAIID Provider. A BAIID provider or installer must:
 - A) Be qualified and comply with all of the procedures and responsibilities set forth in Section 1001.442 of this Part;
 - B) Upon installation, notify the Secretary, in a manner and form specified by the Secretary, that a BAIID has been installed in the vehicles designated by the MDDP offender within 7 days from the date of the installation of the BAIID:
 - C) Upon notification from the MDDP holder, as evidenced by the written form from the Secretary that the MDDP holder has been found to be indigent, not charge the MDDP holder for any installation, monthly monitoring, deinstallation fees, or security deposit that exceeds one month's BAIID rental fee. This waiver of charges and fees is limited to one vehicle per MDDP holder.
 - D) Upon request, make records available to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
- c) Compliance – Driving with BAIID. Any MDDP offender receiving a MDDP under this Section must comply with the following requirements:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Operate only vehicles with an installed, operating BAIID certified by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the MDDP holder, as required by the MDDP issued under this Section.
 - 2) Either take any and all vehicles operated by the MDDP holder and with a BAIID installed or send the device to the BAIID provider or installer at least every 60 days, which shall be referred to as the monitoring period, commencing with the date of installation, for the purposes of calibration and having a monitor report of the BAIID's activity prepared and sent to the Secretary by the BAIID provider or installer. The monitoring period will be 30 days for any MDDP holder whose summary suspension is extended or who is re-suspended for a violation of the MDDP program.
 - 3) Either take the vehicle with the BAIID installed or send the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the BAIID and the name of the driver operating the vehicle at the time of the event. If BAIIDs have been installed on multiple vehicles, a separate journal must be kept for each vehicle.
 - 5) Shall not have a BAIID removed or deinstalled from vehicles without authorization from the Secretary and when, applicable, surrendering to the Secretary or his designee the MDDP.
 - 6) Shall not commit any of the violations listed in subparagraph (d) of this Section.
- d) Violations. Any of the following, when committed by an MDDP holder, constitutes a violation of the MDDP program:
- 1) A conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC;
 - 2) Tampering or attempting to tamper with, or unauthorized circumvention of, the BAIID;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 3) A violation of Section 6-206.2 of the IVC;
 - 4) 10 or more unsuccessful attempts to start the vehicle with a BAIID installed within a 30 day period, excluding a BrAC reading of 0.05 or more;
 - 5) 5 or more unsuccessful attempts to start the vehicle within a 24 hour period, excluding a BrAC reading of 0.05 or more;
 - 6) A BrAC reading of 0.05 or more;
 - 7) Failing a running retest, or failing to take a running retest;
 - 8) Removing the BAIID without authorization from the Secretary;
 - 9) Failing to utilize the BAIID as required;
 - 10) Failing to submit a BAIID for a monitor report in a timely manner.
- e) Sanctions Upon Commission of a Violation. Upon notification of any of the violations in subsection (d), the Secretary shall take the following action:
- 1) For a conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC, or a notification from a BAIID provider or installer that a physical inspection of any BAIID permittee's vehicle showed any tampering with or unauthorized circumvention of the device, immediately cancel the MDDP, extend the suspension as provided for in Section 6-206.1(1) of the IVC, and authorize the immediate removal/deinstallation of the BAIID. If the MDDP had expired prior to the Secretary receiving notification of the conviction, supervision or violation, the Secretary shall re-suspend the MDDP offender as provided for in Section 6-206.1(1) of the IVC. The MDDP offender may then file a petition for the issuance of an RDP. The MDDP offender must have a formal hearing pursuant to IVC Section 2-118 and satisfy all the requirements of this Subpart D in order to obtain the permit.
 - 2) For any MDDP holder whose monitor report or other sufficient evidence shows any tampering or unauthorized circumvention of the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

~~BAIID violation of Section 6-206.2~~, send the MDDP holder a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately cancel the MDDP, extend the suspension as provided for in Section 6-206.1(1) of the IVC, and authorize the immediate removal/deinstallation of the BAIID. If the summary suspension is already terminated prior to the Secretary receiving the monitor report/physical inspection showing the violation, the Secretary shall re-suspend the MDDP offender as provided for in Section 6-206.1(1) of the IVC. The MDDP offender may then file a petition for the issuance of an RDP. The MDDP offender must have a formal hearing pursuant to IVC Section 2-118 and satisfy all the requirements of this Subpart D in order to obtain the permit for 3 months.

- 3) For any MDDP holder whose monitor report shows: 10 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 30 day period; or 5 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 24 hour period; or any single BrAC reading of 0.05 or more, send the MDDP holder a letter asking for an explanation of the unsuccessful attempts to start the vehicle or the BrAC reading. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months. Should any monitor report show multiple violations, each violation provided for in this subsection shall be a separate violation requiring a separate 3 month extension or re-suspension.
- 4) For any MDDP holder whose monitor reports show a failure to successfully complete a running retest, send the MDDP holder a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.

- 5) For a removal/deinstallation of a BAIID without authorization, including a removal or deinstallation caused by the MDDP holder's failure to pay lease or rental fees due to the BAIID provider, the Secretary shall immediately cancel the MDDP.
- 6) For a failure to utilize the BAIID by the MDDP holder as required, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.
- 7) For a failure to submit a BAIID for a monitor report in a timely manner, the following procedure will be followed: unless notified by a BAIID provider that the BAIID has been removed, all monitor reports shall be submitted to the Secretary within 37 days after installation and within every 37 days thereafter. If the Secretary fails to receive an MDDP holder's monitor reports within the 37 days, the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and MDDP holder by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the MDDP holder failed to take in a vehicle with the BAIID or send the device in for timely monitor reports, then the Secretary will send a letter to the MDDP holder stating that, if the BAIID is not taken in for a monitor report within 10 days after the date of the letter, the Secretary will extend the summary suspension for 3 months, or, if the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary will re-suspend for 3 months. If the MDDP holder cannot be located or does not respond to the Secretary's request for information, the MDDP shall be cancelled or, if the MDDP has expired, the Secretary shall re-suspend the MDDP as provided for in IVC Section 6-206.1(1).

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 8) Violations detected in any one monitoring period shall not, however, result in extensions or re-suspensions totaling more than six months.
 - 9) If the MDDP holder is re-suspended for a violation that was not reported to the Secretary until after the termination of the MDDP holder's summary suspension, the MDDP holder may obtain another MDDP by notifying the Secretary in writing and submitting all required fees.
- f) **Hearing to Contest Cancellation of MDDP or Extension of the Summary Suspension.** Any MDDP holder whose summary suspension is extended or re-suspended, or whose MDDP is cancelled as provided for in this Section, may request a hearing to contest that action. A written request, along with the \$50 filing fee, must be received or postmarked within 30 days from the effective date of the extension, re-suspension or cancellation. The hearing will be conducted as any other formal hearing under this Part.
- g) **MDDPs – Content.** Any MDDPs issued as provided for in this Section shall, in addition to all other requirements, state at a minimum that:
- 1) The MDDP is issued pursuant to the BAIID requirements of this Section and that a vehicle operated by an MDDP holder must be equipped with a certified, installed, properly operating BAIID;
 - 2) The provisions of the MDDP also allow the MDDP holder to drive to and from the BAIID provider or installer for the purpose of installing the BAIID within 14 days after the issuance date on the MDDP;
 - 3) Once the BAIID is installed, the MDDP holder may drive the vehicle with the BAIID properly installed for any purpose and at any time;
 - 4) If applicable, the MDDP holder qualifies for any modification or waiver of BAIID, as provided in subsection (i), or employment exemption from BAIID, as provided in subsection (j).
- h) **Use of Monitor Reports.** The Secretary shall gather all monitor reports and any other information relative to the MDDP holder's performance and compliance with the BAIID requirements under this Subpart D. The reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- i) Modification or Waiver of BAIID. Upon request of the MDDP holder, the Secretary may consider a medical or physical BAIID modification or waiver for an MDDP issued under this Section. The MDDP holder must:
- 1) Submit a medical report establishing the inability to utilize the BAIID.
 - 2) Have a hearing, pursuant to Subpart A, at which the MDDP holder must prove compliance with the alcohol/drug requirements under this Subpart D.
- j) Employment Exemption from BAIID Requirements. In determining whether an MDDP holder is exempt from the BAIID requirements pursuant to the waiver provided for in Section 6-206.1 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the MDDP holder or any member of the MDDP holder's immediate family, unless the entity is a corporation and the MDDP holder and the MDDP holder's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;
 - 2) The exemption shall not apply when the employer's vehicle is assigned exclusively to the MDDP holder, or the MDDP holder uses the vehicle and used solely for commuting to and from employment or for other personal use;
 - 3) This exemption is subject to termination if the Secretary obtains or receives credible evidence that it is being abused or violated by the MDDP holder, such as, but not limited to, driving outside the scope of his or her employment, or driving the employer's vehicle from his or her residence to the place of employment. Upon obtaining or receiving credible evidence of the abuse or violation of an exemption, the Secretary shall send the MDDP holder a letter that requests a response to the evidence. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that an abuse or a violation did not occur, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately terminate the exemption;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 4) The Secretary will also inform the MDDP holder whose employment exemption is terminated that he or she remains eligible to have an interlock device installed in his or her personal vehicle and the employer's vehicle without a hearing. Failure to have the device installed by the date designated by the Secretary will result in the termination of the MDDP offender's monitoring device driving permit;
 - 5) The denial of an exemption and the termination of an exemption may be contested pursuant to Section 1001.441(k);
 - 6) An exemption also will be granted to an MDDP holder who can prove that his or her duties include test driving vehicles not owned by the permittee. The exemption will be limited to this purpose, and to no more than a 5 mile radius from the permittee's place of employment.
- k) Disqualification/Decertification of BAIID Provider and BAIID Device. The Secretary must notify the MDDP holder of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The MDDP holder must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The MDDP holder must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The MDDP holder must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the MDDP holder's MDDP. All costs related to any change in a BAIID provider or a BAIID shall be paid by the MDDP holder, unless the court has deemed the MDDP holder indigent.
- l) Indigent BAIID Fund
- 1) Any BAIID provider who installs a BAIID under the MDDP program must pay 5% of the total gross revenue received by each contract entered into with an MDDP holder who is not found to be indigent by the Secretary, referred to in this subsection as the surcharge.
 - A) The surcharge shall include only those fees normally charged an MDDP holder for installation, monthly rental and monitoring, and

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

deinstallation of the BAIID during the term of the MDDP holder's statutory summary suspension.

- B) The surcharge shall be submitted to the Secretary by the 15th of each month and shall include all surcharges incurred during the previous month. The surcharge must be submitted in the form of a check, made payable to the Secretary of State, or by electronic transfer as agreed to by the Secretary and the BAIID Provider.
 - C) Should the summary suspension of an MDDP holder be extended or a re-suspension issued under the MDDP program and the holder continue to participate in the program, the surcharge is due for the period of extension or re-suspension.
- 2) Any BAIID provider who installs a BAIID under the MDDP program for an MDDP holder who has been found to be indigent by the Secretary may apply for reimbursement for any fees incurred as set out in subsection (b)(2)(C). The request must be in a form and in the manner prescribed by the Secretary. The Secretary will authorize payments in accordance with Section 6-206.1(o) of the IVC.
 - 3) The Secretary may audit the records of BAIID providers or installers to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
 - 4) An MDDP offender may be declared indigent by the Secretary if the MDDP offender's total monthly income is 150% or less of the federal poverty guidelines, as evidenced by a copy of the United States or State of Illinois tax return for the most recently completed calendar year.
- A) For an MDDP offender who has not filed a United States or State of Illinois tax return for the most recently completed calendar year, indigency may be declared if:
 - i) The MDDP offender is currently receiving Temporary Assistance to Needy Families (TANF) benefits, as evidenced by documentation from the Illinois Department of Human Services;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- ii) The MDDP offender is currently receiving Supplemental Nutrition Assistance Program (SNAP) benefits, as evidenced by documentation from the Illinois Department of Human Services.
- B) For the MDDP offender who has not filed a United States or State of Illinois tax return for the most recently completed calendar year and is not currently receiving TANF or SNAP benefits, indigency may be declared if the MDDP offender is receiving Supplemental Security Income (SSI) from the Social Security Administration and the MDDP offender completes an affidavit under penalty of perjury swearing the total amount of income received from all sources, including SSI, is ~~less than~~ 150% or less of the federal poverty guidelines.
- 5) An MDDP holder's indigency status shall be valid for a period of 12 months. Any MDDP holder whose summary suspension is extended beyond 12 months, who wishes to continue participation in the MDDP program and wishes to be declared indigent must submit current documentation as set forth in subsection (1)(4).
- m) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permanency Planning
- 2) Code Citation: 89 Ill. Adm. Code 315
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
315.200	Amended
315.241	New
315.305	Amended
- 4) Statutory Authority: 20 ILCS 505/5
- 5) Effective Date of Rulemaking: September 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendments, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: December 27, 2010; 34 Ill. Reg. 19788
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The Department made no changes other than grammatical changes suggested by JCAR prior to initial publication.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace and emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
315.20	Amendment	35 Ill. Reg. 8051; May 27, 2011

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: The Department is amending Section 315.200, Selection of the Permanency Goal, and Section 315.305, When Reunification is Inappropriate, and adding Section 315.241, Continuing Foster Care. The proposed amendments are being made to include the additional permanency goal of "Continuing Foster Care" as recently added into law by Public Act 96-600, effective August 21, 2009.
- 16) Information and questions regarding this adopted amendments shall be directed to:

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

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 315

PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section

315.10	Purpose
315.20	Definitions
315.30	Best Interests Health and Safety of the Child
315.40	Accountability
315.45	The Need for a Permanent Home
315.50	Reasonable Efforts/Reasonable Progress
315.60	The Child's Sense of Time
315.70	The Critical Decisions
315.80	Components of the Permanency Planning Process

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section

315.100	Assessment
315.110	Worker Interventions and Contacts
315.120	Family Meetings
315.130	Developing the Service Plan
315.140	Distributing the Service Plan
315.150	Revising the Service Plan
315.160	Case Reviews and Court Hearings

SUBPART C: SELECTING THE PERMANENCY GOAL

Section

315.200	Selection of the Permanency Goal
315.205	Return Home Within Five Months
315.210	Return Home Within One Year
315.215	Return Home Pending Status Hearing
315.220	Substitute Care Pending Court Determination on Termination of Parental Rights
315.225	Adoption
315.230	Guardianship

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

315.235	Independence
315.240	Cannot Be Provided for in a Home Environment
315.241	Continuing Foster Care
315.245	Concurrent Planning
315.250	Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section	
315.300	Evaluating Whether Children in Placement Should Be Returned Home
315.305	When Reunification Is Inappropriate
315.310	Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. 11785, effective September 14, 2001; amended at 26 Ill. Reg. 7720, effective May 24, 2002; amended at 26 Ill. Reg. 11765, effective August 1, 2002; amended at 28 Ill. Reg. 8465, effective June 4, 2004; amended at 32 Ill. Reg. 8103, effective May 30, 2008; amended at 35 Ill. Reg. 14934, effective September 1, 2011.

SUBPART C: SELECTING THE PERMANENCY GOAL

Section 315.200 Selection of the Permanency Goal

a) Types of Permanency Goals

A permanency goal is the desired outcome of intervention and service that is determined to be consistent with the health, safety, well-being and best interests of the child. A description and the criteria for selection of each of the goals are included in Sections 315.205 through ~~315.241~~[315.240](#). The goals that may be selected for children placed apart from their families are listed below followed in parentheses by the numerical code that is entered into the Department's Child and Youth Centered Information System (CYCIS):

- 1) return home within five months (21);
- 2) return home within 12 months (22);

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) return home pending status hearing (23);
- 4) substitute care pending court determination on termination of parental rights (24);
- 5) adoption, provided that parental rights have been terminated or relinquished (25);
- 6) guardianship (26);
- 7) independence (27); ~~or~~
- 8) cannot be provided for in a home environment (28); or-
- 9) continuing foster care (29).

b) Process for Selection

- 1) During the first 12 months, prior to the first court permanency hearing, the Department or purchase of service agency selects the permanency goal. At the first permanency hearing the Department or purchase of service agency will recommend a permanency goal, but the court selects the goal.
- 2) An initial permanency goal will be established by the Department or purchase of service agency in time to ensure submittal of the service plan to the juvenile court no later than 45 days after the child's placement as required by Section 2-10 of the Juvenile Court Act of 1987 [705 ILCS 405/2-10], and only after:
 - A) an assessment has been completed with the family and reviewed and approved by the casework supervisor; and
 - B) the initial family meeting has been held.

c) Changing the Permanency Goal

A permanency goal may only be changed:

- 1) within the first 12 months following case opening by the caseworker with

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

the approval of the supervisor; or

- 2) within the first 12 months following case opening at an administrative case review or a decision review; or
- 3) when selected by the court at the permanency hearing pursuant to Section 2-28 of the Juvenile Court Act of 1987 [705 ILCS 405/2-28]. A permanency goal selected by the court cannot be changed without the approval of the court.

(Source: Amended at 35 Ill. Reg. 14934, effective September 1, 2011)

Section 315.241 Continuing Foster Carea) Description

The guardianship of the minor will remain with the Department and the minor will be in continuing foster care if all other permanency goals have been ruled out.

b) Criteria for Selection

Continuing foster care may be selected as the permanency goal when:

- 1) the Department of Children and Family Services has custody and guardianship of the minor;
- 2) all other permanency goals have been ruled out based on the minor's best interest;
- 3) the court has selected the goal, having found compelling reasons to place the minor in continuing foster care;
- 4) the minor has lived with the relative or foster parent for at least one year; and
- 5) the relative or foster parent currently caring for the child is willing to provide, and capable of providing, the child with a stable and permanent environment for the foreseeable future.

c) Compelling Reasons

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Compelling reasons must be documented, reviewed and considered by the court, and include:

- 1) the minor does not wish to be adopted or to be placed in the guardianship of his or her relative or foster care placement;
- 2) the minor exhibits an extreme level of need such that the removal of the minor from his or her placement would be detrimental to the child;
or
- 3) the minor who is the subject of the permanency hearing has existing close and strong bonds with a sibling, and achievement of another permanency goal would substantially interfere with the minor's sibling relationship, taking into consideration the nature and extent of the relationship, and whether ongoing contact is in the minor's best interest, including long-term emotional interest, as compared with the legal and emotional benefit of permanence.

(Source: Added at 35 Ill. Reg. 14934, effective September 1, 2011)

SUBPART D: EVALUATION AND DECISIONMAKING

Section 315.305 When Reunification Is Inappropriate

If the parents fail to demonstrate reasonable progress in correcting the conditions that led to the removal of the child within the time frames required by the permanency goal of return home that was assigned by the Department and/or the court, the following alternatives to return home shall be discussed with the parents:

- a) voluntary surrender of parental rights for purpose of freeing the child for adoption;
- b) consent to the adoption of the child by a specified person;
- c) involuntary termination of parental rights;
- d) private guardianship;
- e) continuing foster care.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 14934, effective September 1, 2011)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Administrative Case Reviews and Court Hearings
- 2) Code Citation: 89 Ill. Adm. Code 316
- 3) Section Number: 316.120 Adopted Action:
Amended
- 4) Statutory Authority: 20 ILCS 505/5
- 5) Effective Date of Rulemaking: September 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporation by reference? No
- 8) A copy of the adopted amendment, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: December 27, 2010; 34 Ill. Reg. 19796
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Other than grammatical changes suggested by JCAR prior to initial publication, the Department made only one minor correction to a statutory citation for clarification.
- 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 and emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes
- 15) Section Number: 316.20 Proposed Action: Amendment Illinois Register Citation:
35 Ill. Reg. 8060; May 27, 2011
- 15) Summary and Purpose of Rulemaking: The Department is amending Section 316.120, Permanency Hearings. The proposed amendment is being made to include the additional

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

permanency goal of "Continuing Foster Care" as recently added into law by Public Act 96-0600, effective August 21, 2009.

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

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

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 316
ADMINISTRATIVE CASE REVIEWS AND COURT HEARINGS

Section	
316.10	Purpose
316.20	Definitions
316.30	Administrative Case Review System
316.40	Frequency of Administrative Case Reviews
316.50	Conduct and Participation at Administrative Case Reviews
316.60	Notice of Administrative Case Reviews
316.70	Roles and Responsibilities of the Administrative Case Reviewer
316.80	Caseworker Responsibilities at the Administrative Case Review
316.90	Decision Review
316.100	Appealability of Decisions
316.110	The Department's Role in the Juvenile Court
316.120	Permanency Hearings
316.130	Caseworker Responsibilities at the Permanency Hearing
316.140	Compliance with the Client Service Planning Requirements

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2528, effective February 1, 1999; amended at 26 Ill. Reg. 16909, effective November 8, 2002; amended at 35 Ill. Reg. 14942, effective September 1, 2011.

Section 316.120 Permanency Hearings

- a) The Department or its provider agency will participate in permanency hearings conducted by the court at 12 months following the temporary custody hearing and every six months thereafter in order to:
 - 1) select the permanency goal;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 2) review the appropriateness of the services contained in the plan and whether those services have been provided and, if not, why not;
 - 3) determine whether reasonable efforts have been made by all parties to the service plan to achieve the goal; and
 - 4) evaluate whether the plan and goal have been achieved.
- b) The Department or its provider agency shall provide, no later than 14 days in advance of the hearing, a copy of the most recent service plan, prepared within the prior six months, to the court and all parties to the permanency hearings.
- c) If not contained in the plan, the Department or its provider agency shall also include a report setting forth:
- 1) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination; and
 - 2) for any minor age 16 or over, a written description of the programs or services that will enable the minor to prepare for independent living.
- d) The Department's or its provider agency's written report must explain why, if the goal is other than return home, continued involvement is appropriate and why termination of parental rights or private guardianship is not being sought.
- e) The Department's or its provider agency's written report must explain why, if the goal recommended is continuing foster care, all other goals have been ruled out based on the child's best interest and delineate the compelling reasons for selection of this goal.
- f)e) The Department's or its provider agency's caseworker is required to appear and testify at the hearing and prepare a written report for the court.

(Source: Amended at 35 Ill. Reg. 14942, effective September 1, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: High Risk Home Loans
- 2) Code Citation: 38 Ill. Adm. Code 345
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
345.10	Amendment
345.30	Amendment
345.110	Amendment
345.120	Amendment
345.130	Amendment
345.140	Amendment
345.150	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48(6)(a)]
- 5) Effective Date of Rulemaking: September 9, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 6242; April 15, 2011
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version: There were no substantive changes.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: These amendments eliminate a duplicative requirement found in Section 345.130 regarding the reporting of default and foreclosure rates on conventional loans. In addition, these amendments also contain numerous non-substantive revisions that reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Banking.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: [DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION OFFICE OF BANKS AND REAL ESTATE](#)

PART 345

HIGH RISK HOME LOANS

Section

345.10	Definitions
345.20	Ability to Repay
345.30	Verification of Ability to Pay Loan
345.40	Fraudulent or Deceptive Practices
345.45	Prepayment Penalty
345.50	Pre-paid Insurance Products and Warranties
345.60	Refinancing Prohibited in Certain Cases
345.65	Balloon Payments
345.70	Financing of Certain Points and Fees
345.80	Payments to Contractors
345.90	Negative Amortization
345.100	Negative Equity
345.110	Counseling Prior to Perfecting Foreclosure Proceedings
345.120	Mortgage Awareness Program
345.130	Report of Default and Foreclosure Rates on Conventional Loans
345.140	Secretary's Commissioner's Review and Analysis
345.150	Third Party Review of High Risk Home Loans
345.APPENDIX A	Estimated Monthly Income and Expenses Worksheet
345.APPENDIX B	Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS/48(6)(a)].

SOURCE: Sections 345.130, 345.140, and 345.150 adopted by emergency rulemaking at 24 Ill. Reg. 19308, effective December 15, 2000, for a maximum of 150 days; emergency rulemaking repealed at 25 Ill. Reg. 3692, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1855; adopted at 25 Ill. Reg. 6137, effective May 17, 2001; amended at 35 Ill. Reg. 14946, effective September 9, 2011.

Section 345.10 Definitions

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

"Act" means the Illinois Banking Act [205 ILCS 5].

"Approved Credit Counselor" means a credit counselor as approved by the Secretary of the Department of Financial and Professional Regulation~~Director of the Department of Financial Institutions.~~

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-
Division of Banking with the authority delegated by the Secretary.

"Good faith" means honesty in fact in the conduct of the transaction.

"High risk home loan on residential real property" means a home equity loan in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (~~20102000~~, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (~~20102000~~, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

Section 345.30 Verification of Ability to Pay Loan

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. ~~TheSuch~~ verification shall require, at a minimum, the following:

- a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the ~~Secretary~~Commissioner who may permit

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

the use of other forms, such as the URLA (Fannie Mae Form 1003 ([06/0910/92](#)), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 ([06/0910/92](#)), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 ([06/093/97](#)), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 1008 ([06/093/97](#)), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).

- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

Section 345.110 Counseling Prior to Perfecting Foreclosure Proceedings

- a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS [DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION-DIVISION OF BANKING OFFICE OF BANKS AND REAL ESTATE](#)."

- c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

- d) If, within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.
 - 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.
 - 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.
- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.
- f) This Section applies only to high risk home loans as defined by Section 345.10.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

Section 345.120 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational component that is provided by the ~~Director of the~~ Department of ~~Financial Institutions~~.
- b) The core curriculum of the Mortgage Awareness Program shall include:
 - 1) Explanation of the amount financed;
 - 2) Explanation of the finance charge;
 - 3) Explanation of the annual percentage rate;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Explanation of the total payments;
 - 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;
 - 6) Explanation of the right of rescission;
 - 7) Explanation of foreclosure procedures;
 - 8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;
 - 9) Explanation of adjustable rate mortgage;
 - 10) Explanation of balloon payments;
 - 11) Explanation of credit options;
 - 12) Explanation of each item that appears on a good faith estimate;
 - 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the [SecretaryCommissioner](#).
 - d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a Third Party Review to establish the affordability of the loan.
 - e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.
 - f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
 - g) No lender shall offer less favorable loan terms to a borrower due to a borrower's

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

participation in a Mortgage Awareness Program.

- h) Except as prohibited elsewhere in this Part, the borrower may waive participation in the program, provided that ~~the~~ waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that ~~the~~ waiver is in writing in a form approved by the ~~Secretary~~ Commissioner.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

Section 345.130 Report of Default and Foreclosure Rates on Conventional Loans

- a) On or before October 1 and April 1 of each year, each bank that is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.
- b) Each bank shall report:
- 1) ~~The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate.~~ 2) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate.
 - 23) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.
 - 34) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.
 - 45) The dollar amount of foreclosures on 1-4 family conventional loans completed during the reporting period.
 - 56) The number of foreclosures on 1-4 family conventional loans completed during the reporting period.
 - 67) Whether any of the loans where a foreclosure was completed were originated less than 18 months before the completed foreclosure.
 - 78) Whether any of the loans where a foreclosure was completed had a note

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

rate greater than 10% for first lien mortgage loans or greater than 12% in the case of a junior lien.

- c) An officer of the bank shall sign the form.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

| **Section 345.140 ~~Secretary's~~ Commissioner's Review and Analysis**

- a) The Commissioner shall review and analyze the default and foreclosure rate data reports submitted under Section 345.130.
- b) The reports and their analyses may be used:
- 1) In setting the scope of a regularly scheduled examination.
 - 2) In setting the scope of a special examination.
 - 3) In comparing the reported information of a bank to other banks subject to this Act.
 - 4) In comparing the reported information of a bank to the reports submitted by banks and charters under other Acts.
- c) The ~~Secretary~~ Commissioner may correspond with a bank to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

| **Section 345.150 Third Party Review of High Risk Home Loans**

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the ~~Department~~ Office of Banks and Real Estate of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the ~~Department~~ Office of Banks and Real Estate specifically for this program.

- a) Every borrower who chooses to participate in the independent review provided in

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

this Section shall submit information requested on the worksheets outlined in Appendix A and [Appendix B](#).

- b) The ~~Department Office of Banks and Real Estate~~ shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget.
- c) In addition, the ~~Department Office of Banks and Real Estate~~ shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.
- d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.
- e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 35 Ill. Reg. 14946, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing and Regulation of Pawn Brokers
- 2) Code Citation: 38 Ill. Adm. Code 360
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
360.10	Amendment
360.20	New Section
360.100	Amendment
360.110	Amendment
360.120	Amendment
360.130	Amendment
360.135	New Section
360.140	Amendment
360.150	Amendment
360.160	Amendment
360.200	Amendment
360.210	Amendment
360.300	Amendment
360.310	Amendment
360.400	Amendment
360.410	Amendment
360.420	Amendment
360.500	Amendment
360.510	Amendment
360.520	Amendment
360.620	Amendment
360.630	Amendment
360.640	Amendment
360.700	New Section
360.710	New Section
- 4) Statutory Authority: Implementing and authorized by the Pawnbroker Regulation Act [205 ILCS 510]
- 5) Effective Date of Rulemaking: September 9, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 19808; December 27, 2010
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version:

Above the tables of contents, to "SUBPART A", add "AND FEES" following "DEFINITIONS".

In the table of contents, add "360.20 Fees".

Above Section 360.10, "SUBPART A" add "AND FEES" following "DEFINITIONS".

In Section 360.10, add "Act" means the Pawnbroker Regulation Act [205 ILCS 510].

Add new Section 360.20.

In Section 360.100, on the first line, strike "Subpart" and add "Part".

In Section 360.100(b), on the first line, strike "copy of the" and add "comprehensive". Also, on the first line, add "is set forth in Section 350.20; will be available on our website at <http://www.obre.state.il.us/cbt/PAWNBROK/pawnfee.htm> and can also be provided in hardcopy upon written request". following "Secretary" and strike "may be obtained upon written request".

Section 360.110(a) has been reworked, as follows:

- a) Licensure Requirement, Where to File. Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] provides that it is unlawful to operate a pawnshop without a license issued by the Secretary~~Commissioner~~. All requests for an application package must be directed to the Department of Financial and Professional Regulation - Division of Banking, Pawnbroker Regulation Section, 320 W. Washington Street, 6th Floor, Springfield, Illinois 62786; Telephone (217) 785-2900; or IL.Pawnbrokers@illinois.gov, Office of

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

~~Banks and Real Estate, Bureau of Banks and Trust Companies, 500 East Monroe, Springfield, Illinois 62701-1509 (Telephone (217) 785-2900) or to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278 (Telephone (312) 793-3000) by written correspondence, or telephone or electronic communication.~~
A separate license is required for each pawnshop location.

In Section 360.135, substitute the following modified language in subsection (a) below, and also add subparagraphs (a)(1) through (a)(10):

- a) Requirements and Conditions. Any individual who manages a pawnshop or who acts in a managerial capacity shall secure a managerial license from the Department. A license will be issued only after the individual has evidenced, through filing with the Department, that the individual has not been convicted of any criminal felony involving dishonesty or breach of trust during the five years preceding the application. The application shall include, but not be limited to:

In Section 360.700, on the first line, delete the comma following "Act". Also, in the definition of "Unregistered buyer", on the last line, change "this" to "the".

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: Pursuant to Public Act 96-1365, all pawnbrokers are required to acquire and maintain insurance that covers 2 times the aggregate value of all the pawnshop's outstanding loans. The Department will call for proof of insurance prior to issuing or renewing all future licenses. Compliance may also be verified during examinations or any other time at the discretion of the Department. The Act also added a new requirement for employees of pawnshops who have the authority to act in a managerial capacity to obtain a license from the Department. Once issued, a license will be valid unless revoked or voluntarily surrendered for two years. Further, a valid license may be used in connection with the holder's employment at any pawnshops regulated by the Department.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

In addition to the pawnbroker amendments mentioned above, the Department will also be implementing Public Act 96-1038. We have now added a new Subpart to this Part addressing the statutory requirement to register and pay a fee to the Sheriff of each county where the unregistered buyer intends to conduct business for each event at each location.

The Department also took this opportunity to adopt numerous nonsubstantive changes to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Banking.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: [DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION](#)
[OFFICE OF BANKS AND REAL ESTATE](#)

PART 360

LICENSING AND REGULATION OF PAWNBROKERS

SUBPART A: DEFINITIONS [AND FEES](#)

Section

360.10

Definitions

[360.20](#)[Fees](#)

SUBPART B: PAWNSHOP LICENSE

Section

360.100

Purpose

360.110

Application for License

360.120

Processing of Application

360.130

Standards for Licensure

[360.135](#)[Licensing Requirements for Pawnbroker Managers](#)

360.140

Initial Applications for License from Persons Operating or Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998

360.150

Change in Control or Form of Ownership, Change in Location, Change in Name of Pawnshop, Voluntary Surrender of License; Fees

360.160

Expiration and Renewal of Licenses; Fees

360.170

Display of License; Duplicate License

SUBPART C: FORMS

Section

360.200

Purpose and Scope

360.210

Forms

SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE [SECRETARY](#)
[COMMISSIONER](#)

Section

360.300

Scope

360.310

Procedure for Hearings before the [Secretary](#)~~Commissioner~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: RULES AND PROCEDURES APPLICABLE
TO PROCEEDINGS RELATING TO ORDERS

Section	Scope
360.400	Scope
360.410	Grounds for an Order
360.420	Effective Date of Order; Service

SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING
TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES

Section	Scope
360.500	Scope
360.510	Assessment of Penalties
360.520	Effective Date of, Payment under, and Service of an Order to Pay

SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR
REVOCAION OR SUSPENSION OF LICENSE

Section	Scope
360.600	Scope
360.610	Grounds for Suspension of License
360.620	Grounds for Revocation of License
360.630	Notice to Customers
360.640	Effective Date of Revocation or Suspension; Service

[SUBPART H: FEE SCHEDULE FOR UNREGISTERED BUYERS](#)

<u>Section</u>	<u>Definitions</u>
<u>360.700</u>	<u>Temporary Buying Location Registration Fees</u>
<u>361.710</u>	

AUTHORITY: Implementing and authorized by the Pawnbroker Regulation Act [205 ILCS 510].

SOURCE: Emergency Rule adopted at 22 Ill. Reg. 12963, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 19730, effective October 29, 1998; amended at 28

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 6967, effective April 29, 2004; amended at 35 Ill. Reg. 14957, effective September 9, 2011.

SUBPART A: DEFINITIONS AND FEES**Section 360.10 Definitions**

For purposes of this Part:

"Act" means the Pawnbroker Regulation Act [205 ILCS 510].

"Applicant" means the individual or business entity applying to the ~~Secretary~~Commissioner for a license.

~~"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.~~

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Banking with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-
Division of Banking.

"License" means the authority to operate a pawnshop as issued by the ~~Secretary~~Commissioner.

"Licensee" means the individual or business entity who has been issued a license by the ~~Secretary~~Commissioner.

"Pawnbroker" shall have the same meaning ascribed to that term in Section 1 of the Pawnbroker Regulation Act [205 ILCS 510/1].

"Pledger" means any person who has pledged tangible personal property as collateral for a pawn loan.

"Principal party" means any officer or director of a pawnshop or a corporation that owns or seeks to own a pawnshop; any manager of a limited liability

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

company that is a pawnshop or that owns or seeks to own a pawnshop; any shareholder or member owning 10% or more of the outstanding stock or membership interests of a pawnshop or a business entity that owns or seeks to own a pawnshop; or any partner, whether general or limited, of a partnership that is a pawnshop or that owns or seeks to own a pawnshop.

"Respondent" means the person named in an administrative decision.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.20 Fees

- a) Fees
 - 1) Annual License \$765.
 - 2) Pawnshop Manger Biennial License \$50.
 - 3) Change of Control of Ownership \$300.
 - 4) Change of Name \$50.
 - 5) Change of Location \$50.
 - 6) Issuance of Duplicate License \$50.
- b) A comprehensive fees schedule will be available on our website at <http://www.obre.state.il.us/cbt/PAWNBROK/pawnfee.htm>, and can also be provided in hardcopy upon written request.

(Source: Added at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART B: PAWNSHOP LICENSE

Section 360.100 Purpose

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- a) This ~~Part~~~~Subpart~~ sets forth:
- 1) ~~a)~~ where required applications and notices must be filed;
 - 2) ~~b)~~ the contents of the application package;
 - 3) ~~c)~~ the locations where the application package may be obtained;
 - 4) ~~d)~~ the procedures to be followed by both the ~~Secretary~~~~Commissioner~~ and the applicant during the processing of an application or notice;
 - 5) ~~e)~~ the fee which will be levied for each type of application or notice;
 - 6) ~~f)~~ the standards for licensure;
 - 7) ~~g)~~ the procedures to be followed by both the ~~Secretary~~~~Commissioner~~ and a licensee relating to a change in location or name of a pawnshop;
 - 8) ~~h)~~ the procedures to be followed by the ~~Secretary~~~~Commissioner~~, a licensee and an acquiring party relating to a change in control or form of ownership of a pawnshop;
 - 9) ~~i)~~ the procedures to be followed by both the ~~Secretary~~~~Commissioner~~ and a licensee relating to the renewal of a license; and
 - 10) ~~j)~~ requirements relating to the display of a license.
- b) A ~~comprehensive copy of the~~ fee schedule established by the ~~Secretary~~ is set forth in Section 350.20, will be available on our website at <http://www.obre.state.il.us/cbt/PAWNBROK/pawnfee.htm> and can also be provided in hardcopy upon written request. ~~Commissioner may be obtained upon written request.~~

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.110 Application for License

- a) ~~Licensure~~ Requirement, ~~Where~~~~where~~ to ~~File~~~~file~~. Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] provides that it is unlawful to operate a pawnshop without a license issued by the ~~Secretary~~~~Commissioner~~. All

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

requests for an application package must be directed to the [Department of Financial and Professional Regulation-Division of Banking, Pawnbroker Regulation Section, 320 W. Washington Street, 6th Floor, Springfield, Illinois 62786; Telephone \(217\) 785-2900; or IL.Pawnbroker@illinois.gov](#), ~~Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 500 East Monroe, Springfield, Illinois 62701-1509 (Telephone (217) 785-2900) or to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278 (Telephone (312) 793-3000)~~ by written correspondence, ~~or~~ telephone ~~or~~ electronic communication. A separate license is required for each pawnshop location.

- b) Instructions, [Contentseontents](#). An application for a license must be submitted on the form prescribed in Section 360.210 of this Part. An application for a license shall be made under oath and state the full name and address of the applicant together with any other relevant information the ~~Secretary~~[Commissioner](#) shall require. The application shall also include, but not be limited to, the following requirements:
- 1) Disclosure of Principal Parties. The full name and place of residence of all principal parties must be provided.
 - 2) Background Investigation. The ~~Secretary~~[Commissioner](#) may require that credit and criminal history record investigations be conducted on each applicant and principal party. Each applicant and principal party shall complete an Authorization For Release of Personal Information form that authorizes the ~~Secretary~~[Commissioner](#) to conduct a criminal history record investigation and a review of retail credit agencies' records (including credit reports and ratings). At the request of the ~~Secretary~~[Commissioner](#), each applicant and principal party shall submit to, and have performed, a criminal history record investigation in the form and manner required by the Department of State Police and the Federal Bureau of Investigation. The ~~Secretary~~[Commissioner](#) need not cause additional criminal history record investigations to be conducted on an applicant or principal party for whom the ~~Secretary~~[Commissioner](#) or any other government agency has caused such investigations to have been conducted previously unless such additional investigations are otherwise required by law or unless the ~~Secretary~~[Commissioner](#) deems such additional investigations to be necessary for the purposes of carrying out the ~~Secretary's~~[Commissioner's](#) statutory powers and responsibilities.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 3) Insurance Requirement. The applicant, whether seeking a new license or renewing an existing license, shall provide the Secretary with proof of hazard insurance that evidences the name and address of the insuring company, the insurance policy number, the extent of coverage relating to property in active pawn, the amount of coverage, and the policy's expiration date. Thereafter, this information shall be held in file by the applicant for inspection at all times on demand by the Secretary.
- 4) Fees. The applicant must submit the Application Fee of \$765 with the completed application. Unless otherwise permitted by the SecretaryCommissioner, the payment of all fees shall be made by certified check, money order, an electronic transfer of funds, or an automatic debit of an account. Certified checks or money orders shall be made payable to the DepartmentOffice of Banks and Real Estate.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.120 Processing of Application

- a) Initial Reviewreview. The SecretaryCommissioner shall evaluate all applications within 30 business days after receipt and acknowledge completeness, identify deficiencies, and request additional information, if necessary. A completed application is one that conforms to the instructions provided in the application package and for which all fees have been paid. The SecretaryCommissioner may reject an incomplete application.
- b) Failure to Complete Applicationcomplete application. If a complete application has not been filed with the SecretaryCommissioner within 30 business days after the Secretary'sCommissioner's request for additional information, the application shall be denied and the applicable fee shall be forfeited, unless a further extension of time has been granted by the SecretaryCommissioner.
- c) Consideration of Completed Applicationcompleted application. Upon receipt of a completed application and all required fees, a determination will be made by the SecretaryCommissioner within 30 business days to approve or deny the application request, unless the SecretaryCommissioner determines additional time is necessary (e.g., pending background investigations). A written notice of the Secretary'sCommissioner's decision will be mailed to the applicant. The written

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

notice for all denied applications will also include the ~~reasons~~reason(s) for denial. The applicable fee for all denied applications will not be refunded to the applicant.

- d) Petition for ~~Reconsideration~~reconsideration. An applicant has the right to petition the ~~Secretary~~Commissioner for reconsideration within 30 business days after receipt of the written notice of license denial. The petition must be in writing and should: address the ~~reasons~~reason(s) for denial as cited by the ~~Secretary~~Commissioner, specify reasons why the ~~Secretary~~Commissioner should reconsider the decision, and provide relevant information that supports the reasons set forth above. The ~~Secretary~~Commissioner shall respond to all petitions within 30 business days after receipt, unless the ~~Secretary~~Commissioner determines additional time is necessary.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.130 Standards for Licensure

- a) Unless otherwise authorized by the ~~Secretary~~Commissioner, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:
- ~~1)~~a) if an individual, be ~~18~~eighteen years of age or older;
 - ~~2)~~b) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
 - ~~3)~~e) possess the character and general fitness necessary to warrant belief that the business will be operated in a lawful and fair manner.
- b) In determining whether to grant a license, the ~~Secretary~~Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the ~~Secretary~~Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 360.135 Licensing Requirements for Pawnbroker Managers

- a) Requirements and Conditions. Any individual who manages a pawnshop or who acts in a managerial capacity shall secure a managerial license from the Department. A license will be issued only after the individual has evidenced, through filing with the Department, that the individual has not been convicted of any criminal felony involving dishonesty or breach of trust during the five years preceding the application. The application shall include, but not be limited to:
- 1) Name of pawnshop manager, director or employee who will operate the pawnshop (applicant);
 - 2) Name of the pawnshop under which the applicant will operate, including any assumed names;
 - 3) The complete address of where the pawnshop is located and the business telephone number;
 - 4) The home address and social security number of the applicant;
 - 5) The question: Have you or any company with which you were associated been convicted of or ever pleaded guilty or nolo contendere (no contest) to any criminal matter (other than minor traffic violations)? If yes, please provide a complete explanation that includes, at a minimum, the name of the offender, the type of offense, the date the offense occurred and any mitigating circumstances. You are not obligated to disclose sealed or expunged records of conviction or arrest;
 - 6) The question: Has the applicant or any principal party ever been adjudged bankrupt or placed in receivership? If yes, please provide a complete explanation that includes, at a minimum, the name of the person or business entity, the type of bankruptcy or receivership, the date of occurrence and any mitigating circumstances;
 - 7) The question: Has the applicant had a business or professional license issued by a governmental agency suspended, revoked or otherwise disciplined? If yes, please provide a complete explanation that includes the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

type of business or professional license, the governmental agency, the date of the licensing action and any mitigating circumstances;

- 8) The question: Do you now or have you ever operated a pawnshop in Illinois or any other state? If so, list the names and locations of the shops;
- 9) Child support certifications. Each sole proprietor must certify to one of the statements listed in subsections (a)(9)(A) through (C). Failure to so certify shall result in disciplinary action, and the making of a false statement may subject the licensee to contempt of court. Failure to certify may also result in a delay in the processing of the application or may result in the application being denied.
- A) I am not more than 30 days delinquent in complying with a child support order;
- B) I am more than 30 days delinquent in complying with a child support order. (If so, attach a copy of a payment plan approved by the applicable child support enforcement agency.)
- C) I am not subject to a child support order;
- 10) A primary contact person to whom questions and other inquiries should be directed concerning this application.
- b) Operating Standards. Each pawnshop shall employ at least one individual with the authority to act in a managerial capacity. At all times a pawnshop is open for business, an individual with the authority to act in a managerial capacity must be working.
- c) Transferability of License. No managerial license shall be transferable but shall be valid in connection with the holder's employment at any pawnshops regulated by the Department.
- d) Fees and Duration. Each managerial license application shall be submitted with a filing fee of \$50. Unless revoked or voluntarily surrendered, all managerial licenses issued by the Department shall be valid for a period of two years. This application and any questions concerning this application should be directed to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

[Department of Financial and Professional Regulation](#)
[Division of Banking](#)
[Pawnbroker Regulation Section](#)
[320 West Washington Street](#)
[Springfield, Illinois 62786](#)

[217-785-2900 \(Springfield\)](#)
[217-557-0330 \(Fax\)](#)

[Email: IL.Pawnbrokers@illinois.gov](mailto:IL.Pawnbrokers@illinois.gov)

(Source: Added at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.140 Initial Applications for License from Persons Operating or Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998

- a)** Unless otherwise authorized by the ~~Secretary~~Commissioner, for persons who have operated a pawnshop at any time between July 1, 1996 through June 30, 1998, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:
- 1)a)** not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
- 2)b)** provide the ~~Secretary~~Commissioner with satisfactory evidence (e.g., a copy of a license issued from a municipality or copy of pages from a standard record book) that business activities were being conducted within the time period stated above.
- b)** In determining whether to grant a license, the ~~Secretary~~Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the ~~Secretary~~Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 360.150 Change in Control or Form of Ownership, Change in Location, Change in Name of Pawnshop, Voluntary Surrender of License; Fees

- a) Change in Control or Form of Ownership. An application must be filed, by the acquiring party, not less than 30 days prior to the anticipated change in control or change in the form of ownership of a pawnshop. As used in this Section, "control" means a change involving the sale, assignment or transfer of a pawnshop; the addition or elimination of any general or limited partner; or a 10 percent or more change in the ownership of the outstanding stock, or membership interest, of a corporation that owns a pawnshop. A change in the form of ownership is considered to be a change from one type of business entity to another type of business entity (e.g., sole proprietorship to a corporation, partnership to sole proprietorship). The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the [Secretary's Commissioner's](#) instructions. The payment of the applicable Change in Control or Form of Ownership Fee must accompany the application. No change in control or form of ownership shall occur until approved by the [Secretary Commissioner](#). The [Secretary Commissioner](#) may prohibit a change in control or form of ownership from occurring if the licensee does not meet the license standards set forth in Section 360.130 of this Part. The processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The Change of Control or Form of Ownership Fee is \$300.
- b) Gift, Bequest, or Inheritance. Any person who, by gift, bequest, or inheritance, obtains ownership rights to an existing pawnshop or ownership rights in a company that controls the pawnshop such that ownership rights would constitute control of the pawnshop or company, may obtain title and ownership rights, but may not exercise management or control of the business and affairs of the pawnshop or vote so as to exercise management or control unless and until the [Secretary Commissioner](#) approves an application for the change in control as provided in this Section, unless such person has requested, in writing, and received an exemption from the [Secretary Commissioner](#).
- c) Change in Location-
- 1) An application to change the location of a pawn shop must be filed not less than 45 days prior to the anticipated date of relocation. The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the [Secretary's Commissioner's](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

instructions, and the processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The payment of the applicable Change in Location Fee must accompany the application. At a minimum, the application shall include: the present name and address of the licensed pawnshop, the address and phone number of the proposed new location, the anticipated date of relocation, a list of the addresses of all pledgers with open pawn loans, and a sample copy of the written notice that shall be provided to the pledgers of open pawn loans. No relocation of a pawnshop may occur until approved by the [SecretaryCommissioner](#). The [SecretaryCommissioner](#) may prohibit a relocation if it adversely affects the ability of pledgers to redeem pledged goods due to the distance between the locations. Upon approval of a change in location by the [SecretaryCommissioner](#), the licensee shall provide notification to all pledgers with open pawn loans by signs and written notice. The written notice shall be mailed to all pledgers with open pawn loans of record, at their last known mailing address, not less than 15 days prior to the anticipated date of relocation. The written notice must include the name of the pawnshop as well as identify both the old and the new locations, the telephone number of the new location, and the anticipated date of relocation. At a minimum, two signs, of reasonable size and visibility, shall be posted on the outside of the pawnshop for 15 business days prior to the relocation. The signs shall include the information provided in substantially the following form:

NOTICE OF CHANGE IN LOCATION (centered, in caps and bold) (DATE)

(Name of Pawnshop) WILL BE MOVING TO (new address)

THE TELEPHONE NUMBER AT THE NEW LOCATION IS (telephone number)

THE ANTICIPATED DATE OF RELOCATION IS (date of relocation)

- 2) The [SecretaryCommissioner](#) may waive the notification to pledgers by mail if a determination has been made that no pledgers will be adversely affected by the relocation (e.g., the pawnshop relocates to a building within close proximity of the former location). Upon receipt of the completed form, payment of the applicable fee, and the [Secretary'sCommissioner's](#) approval, a new license shall be issued to the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

licensee. The licensee must surrender its former license to the [SecretaryCommissioner](#) not less than 10 business days after the relocation has occurred, unless an exemption has been granted by the [SecretaryCommissioner](#). The Change of Location Fee is \$50.

- d) Change in Name of Pawnshop. Prior to the change in the name of a pawnshop, the licensee shall provide written notice to the [SecretaryCommissioner](#), not less than 30 days prior to the anticipated change, and pay the applicable fee, as established by the [SecretaryCommissioner](#). Upon receipt of the written notice and applicable fee, the [SecretaryCommissioner](#) shall issue a new license. At such time, the licensee must surrender its former license to the [SecretaryCommissioner](#). The Change in Name Fee is \$50.
- e) Voluntary Surrender of License. Prior to the voluntary surrender of a license, the licensee shall provide not less than 60 days written notice to the [SecretaryCommissioner](#). The licensee shall also provide all pledgers with open pawn loans, at their last known mailing address, with 60 days written notice and shall publish a notice in two consecutive issues of a local newspaper of general circulation. At a minimum, the notice shall contain: the name and address of the pawnshop, the telephone number of the pawnshop, and the anticipated date on which business operations will cease. Prior to the cancellation of any license, the licensee shall certify to the [SecretaryCommissioner](#), in the manner prescribed by the [SecretaryCommissioner](#), that the pawnshop has no open pawn loans and that no further pawn loans shall be made. Upon receiving the certification from the licensee, the [SecretaryCommissioner](#) shall cancel the license. At such time, the license shall be surrendered to the [SecretaryCommissioner](#). Ceasing business shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting contract between them.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.160 Expiration and Renewal of Licenses; Fees

- a) License Expiration. Every license shall expire on June 30 of each year. The holder of a license may request to renew such license by filing an application with the [SecretaryCommissioner](#).
- b) License Renewal. All applications for license renewal for the succeeding license period must be mailed to the [SecretaryCommissioner](#) and be postmarked no later

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

than June 1 of each year. An application package and related instructions will be mailed to all licensees prior to May 1 of each year at the address listed on their most recent application. All applications must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the [Secretary's Commissioner's](#) instructions. The payment of the Renewal Fee of \$765 must accompany the application. In addition to the applicable Renewal Fee, a Late Filing Fee of \$50 per day shall be assessed for all applications postmarked after June 1 of each year, unless an exception has been granted by the [Secretary Commissioner](#). All applications for license renewal will be held to the standards set forth in Section 360.130 of this Part. The application process will be administered according to the rules set forth in Section 360.120 of this Part. The Renewal Fee will not be prorated.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART C: FORMS

Section 360.200 Purpose and Scope

This Subpart sets forth the forms required to be filed by statute or rule for reports, applications, and other requests. The forms and instructions can be obtained from the [Division Office of Banks and Real Estate](#).

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.210 Forms

- a) PAWNSHOP DISCLOSURE OF BUSINESS ACTIVITIES REPORT (Disclosure Report). This form is an annual report that shall be completed, by each pawnshop to disclose such information, for the preceding calendar year, as required by the [Secretary Commissioner](#) pursuant to Section 7.5 of the Pawnbroker Regulation Act [205 ILCS 510/7.5]. The [Secretary Commissioner](#), as often as the [Secretary Commissioner](#) shall deem necessary or proper, may require a pawnshop to submit a full and detailed report of its operations, including, but not limited to, the number of pawns made, the amount financed on pawn transactions, and the number and amount of pawns surrendered to law enforcement. The licensee must file the Disclosure Report with the [Secretary Commissioner](#) no later than 30 calendar days following the end of each calendar year.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- b) APPLICATION FOR LICENSE UNDER THE PAWNBROKER REGULATION ACT. This form shall be completed, according to the [Secretary's Commissioner's](#) instructions, in order to apply for a license or renewal of license as required in Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] and Section 360.110 and Section 360.160 of this Part.
- c) APPLICATION FOR A CHANGE IN CONTROL OR A CHANGE IN THE FORM OF OWNERSHIP OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the [Secretary's Commissioner's](#) instructions, in order to apply for the approval of a change in control or a change in the form of ownership of a pawnshop as required in Section 360.150 of this Part.
- d) APPLICATION TO CHANGE THE LOCATION OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the [Secretary's Commissioner's](#) instructions, in order to apply for a change in the location of a pawnshop as required in Section 360.150 of this Part.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE
[SECRETARY COMMISSIONER](#)

Section 360.300 Scope

This Subpart prescribes rules of practice and procedure applicable to hearings as a result of the following administrative decisions made by the [Secretary Commissioner](#):

- a) orders under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- b) assessment of civil money penalties under Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)];
- c) suspension of license under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- d) revocation of license under Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- e) denial of an application under Section 360.120 of this Part.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.310 Procedure for Hearings before the [SecretaryCommissioner](#)

If the respondent has specific grounds for believing the evidence upon which an administrative decision is based is not factual, then the respondent may request a hearing before the [SecretaryCommissioner](#). The procedure for hearings before the [SecretaryCommissioner](#) will be conducted according to [38 Ill. Adm. Code Part 392](#), of the [DivisionOffice of Banks and Real Estate](#) rules entitled "[Hearings Before the DivisionOffice of Banks of Real Estate](#)" ([38 Ill. Adm. Code 392](#)).

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART E: RULES AND PROCEDURES APPLICABLE TO
PROCEEDINGS RELATING TO ORDERS**Section 360.400 Scope**

The rules and procedures in this Subpart shall apply to proceedings in connection with an order issued by the [SecretaryCommissioner](#) pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)]. The [SecretaryCommissioner](#) may issue an order to a licensee, principal party, employee, agent, or other entity doing business without the required license.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.410 Grounds for an Order

An order may be issued when, in the opinion of the [SecretaryCommissioner](#), the licensee, principal party, employee, agent, or any other entity doing business without the required license is violating, has violated, or is about to violate, any law, rule, or order relating to a pawnshop or is engaged, has engaged, or is about to engage in any unethical or fraudulent activity.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.420 Effective Date of Order; Service

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

An order issued by the [SecretaryCommissioner](#) is effective when served upon the licensee, agent, or other entity doing business without the required license. All orders shall remain effective and enforceable when served, except to the extent they are stayed, modified, terminated, or set aside by the [SecretaryCommissioner](#). Service of an order shall be made upon every party of record by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent, agent, or other entity doing business without the required license.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES

Section 360.500 Scope

The rules and procedures of this Subpart shall apply to proceedings to assess and collect civil money penalties. The [SecretaryCommissioner](#) has the power to assess civil money penalties pursuant to Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)].

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.510 Assessment of Penalties

- a) Grounds. Pursuant to Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)], civil penalties may be imposed against any person for each violation of any provision of the Pawnbroker Regulation Act, any rule promulgated in accordance with the Pawnbroker Regulation Act, or any order issued by the [SecretaryCommissioner](#) based upon the seriousness of the violation.
- b) Amount. The [SecretaryCommissioner](#) may assess civil penalties graduated up to \$1,000.
- c) Relevant Considerations. In determining the amount of the civil penalty to be assessed, the [SecretaryCommissioner](#) shall consider the gravity of the violation, the history of previous violations, the financial resources and good faith of the person, and any such other matters as justice may require.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 360.520 Effective Date of, Payment under, and Service of an Order to Pay

- a) Effective ~~Date~~date. Unless otherwise provided, civil penalties are due and payable 60 days after the order is served on the respondent.
- b) If the respondent both requests a hearing before the ~~Secretary~~Commissioner and serves an answer, civil penalties are due and payable 60 days from the date of the ~~Secretary's~~Commissioner's determination or after the respondent's default unless the ~~Secretary's~~Commissioner's determination provides for a different period of payment or the civil penalty is rescinded.
- c) Civil penalties assessed pursuant to an order to pay issued upon consent are due and payable within the time specified therein.
- d) Payment. All penalties collected under this Subpart shall be paid by certified check or money order and be made payable to the ~~Division~~Office of Banks and Real Estate.
- e) Service. Service of a civil money penalty shall be made upon each respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR
REVOCAION OR SUSPENSION OF LICENSE**Section 360.620 Grounds for Revocation of License**

The following are grounds for revocation of license pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]:

- a) a licensee has been convicted of a felony in connection with the operations of a pawnshop;
- b) a licensee knowingly or recklessly violates, or has continuously violated, the Pawnbroker Regulation Act, a rule promulgated in accordance with the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Pawnbroker Regulation Act, or any order of the [SecretaryCommissioner](#);

- c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; or
- d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the [SecretaryCommissioner](#) or any other party.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.630 Notice to Customers

If the [SecretaryCommissioner](#) enters an order revoking the license of a pawnshop, the [SecretaryCommissioner](#) shall, on the day the order becomes final, or such other day as the order prescribes, mail a written notification of revocation of license to all persons who have things in pledge at the most recent address listed on the pawn ticket. The [SecretaryCommissioner](#) shall also publish the notification in two consecutive issues of a local newspaper of general circulation. The [SecretaryCommissioner](#) shall be reimbursed by the licensee for all expenses incurred in connection with the notification. The Notification of License Revocation shall include the information provided in substantially the following form:

NOTIFICATION OF LICENSE REVOCATION (centered, in caps and bold)
(DATE)

1. Pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)], the license of (name of pawnshop) has been revoked as of (the date the order becomes final).
2. (Name and address of pawnshop) is no longer permitted to engage in the business of receiving property in pledge or as security for money or other thing advanced.
3. The revocation of license shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting memorandum, contract, or note.
4. If you have a current business transaction with (name and address of pawnshop), you should contact (address and phone number of [Secretary'sCommissioner's](#) agent) within 30 business days to make

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

arrangements for the disposition of any business transaction.

5. The grounds for the license revocation are (list all grounds as stated in the order).

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 360.640 Effective Date of Revocation or Suspension; Service

A revocation or suspension of license issued by the ~~Secretary~~[Commissioner](#) is effective when served upon the respondent unless another date is specified. A suspension of license shall not exceed 30 days. All revocations or suspensions shall remain effective and enforceable, except to the extent they are stayed, modified, terminated, or set aside by the ~~Secretary~~[Commissioner](#). Service of the revocation or suspension of license shall be made upon every respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

(Source: Amended at 35 Ill. Reg. 14957, effective September 9, 2011)

SUBPART H: FEE SCHEDULE FOR UNREGISTERED BUYERS**Section 360.700 Definitions**

As stated in Section 15(a) of the Act and for purposes of this Subpart:

"Temporary buying location" means a location used by an unregistered buyer, including, but not limited to, hotels and motels.

"Unregistered buyer" means an individual business, or an agent of an individual business, engaged in the business of purchasing from the public, scrap precious metals, including, but not limited to, jewelry, precious stones, semi-precious stones, coins, silver, gold, and platinum, that conducts transactions at a temporary buying location but is not registered under the Act.

(Source: Added at 35 Ill. Reg. 14957, effective September 9, 2011)

Section 361.710 Temporary Buying Location Registration Fees

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

In all counties of Illinois, prior to commencing business, each unregistered buyer shall pay a registration fee of \$100 to the Sheriff of the county in which it seeks to conduct business. The conduct of business at a single temporary buying location, defined in Section 360.700, for consecutive days will require a single registration fee of \$100. A separate registration fee is required for each temporary buying location. Each period of consecutive days, even if only separated by a single day, requires a separate registration fee of \$100.

(Source: Added at 35 Ill. Reg. 14957, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985
- 2) Code Citation: 68 Ill. Adm. Code 1175
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1175.100	Amendment
1175.230	Amendment
1175.420	Amendment
1175.805	Amendment
1175.810	Amendment
1175.1210	Amendment
1175.1300	Amendment
1175.1400	New Section
1175.1405	New Section
1175.1410	New Section
1175.1420	New Section
1175.1430	New Section
1175.1435	New Section
1175.1500	New Section
1175.1505	New Section
1175.1510	New Section
1175.1515	New Section
1175.1520	New Section
1175.1525	New Section
1175.1530	New Section
1175.1535	New Section
1175.1540	New Section
1175.1545	New Section
1175.1550	New Section
1175.1555	New Section
1175.1560	New Section
1175.1565	New Section
1175.1570	New Section
1175.1575	New Section
- 4) Statutory Authority: Implementing the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 5) Effective Date of Amendments: September 9, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: April 22, 2011; 35 Ill. Reg. 6626
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive differences
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Public Act 96-1246, effective January 1, 2011, amended the Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 to add hair braiding to the title of the Act. P.A. 96-1246 defined "hair braiding" and "hair braiding teacher" and set licensing requirements and qualifications. This adopted rulemaking codifies the requirements in P.A. 96-1246 for applicants for licensure for hair braiders and hair braiding teachers and sets renewal dates, fees, and restoration requirements.

The adopted amendments also provide requirements and procedures for the establishment of hair braiding schools and cosmetology schools approved to teach hair braiding by setting standards for space, equipment, sanitation, enrollment agreements and refund policies, as well as setting curriculum and examination requirements. Provisions regulating advertising; recordkeeping; and change of ownership, location, name, and expansion for hair braiding schools were also included.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1175.420, in accordance with P.A. 96-1246, is amended regarding endorsement applications of cosmetologists and cosmetology teachers to simplify requirements for those licensed in other states. Requirements for esthetics schools are also updated.

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

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

217/7855-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1175

THE BARBER, COSMETOLOGY, ESTHETICS, [HAIR BRAIDING](#),
AND NAIL TECHNOLOGY ACT OF 1985

SUBPART A: GENERAL

Section

1175.100	Fees
1175.105	English Translations
1175.110	Granting Variances
1175.115	Sanitary Standards

SUBPART B: BARBER

Section

1175.200	Examination – Barber
1175.205	Examination – Barber Teacher
1175.210	Examination Requirements
1175.215	Application for Licensure
1175.220	Endorsement
1175.225	Renewals
1175.230	Restoration – Barber
1175.235	Restoration – Barber Teacher

SUBPART C: BARBER SCHOOLS

Section

1175.300	School Approval Application
1175.305	Physical Site Requirements
1175.310	Student Contracts
1175.315	Advertising
1175.320	Recordkeeping – Transcripts
1175.325	Recordkeeping – Hours Earned
1175.330	Curriculum Requirements – Barber
1175.335	Curriculum Requirements – Barber Teacher

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.340	Final Examination
1175.345	Change of Ownership
1175.350	Change of Location
1175.355	Change of Name
1175.360	Expansion
1175.365	Discontinuance of Program
1175.370	Withdrawal of Approval

SUBPART D: COSMETOLOGY

Section

1175.400	Examination – Cosmetology
1175.405	Examination – Cosmetology Teacher and Cosmetology Clinic Teacher
1175.410	Examination Requirements
1175.415	Application for Licensure
1175.420	Endorsement
1175.425	Renewals
1175.430	Restoration – Cosmetology
1175.435	Restoration – Cosmetology Teacher

SUBPART E: COSMETOLOGY SCHOOLS

Section

1175.500	School Approval Application
1175.505	Physical Site Requirements
1175.510	Enrollment Agreements and Refund Policies
1175.515	Advertising
1175.520	Recordkeeping – Transcripts
1175.525	Recordkeeping – Hours Earned
1175.530	Curriculum Requirements – Cosmetology
1175.535	Curriculum Requirements – Cosmetology Teacher
1175.536	Curriculum Requirements – Cosmetology Clinic Teacher
1175.540	Final Examination
1175.545	Change of Ownership
1175.550	Change of Location
1175.555	Change of Name
1175.560	Expansion
1175.565	Discontinuance of Program
1175.570	Withdrawal of Approval

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: CONTINUING EDUCATION –
COSMETOLOGY/COSMETOLOGY TEACHER

Section

1175.600	Sponsor Approval (Repealed)
1175.605	Department Supervision (Repealed)
1175.610	Credit Hours (Repealed)
1175.615	Waiver of Continuing Education Requirements (Repealed)

SUBPART G: ESTHETICS

Section

1175.700	Examination – Esthetics
1175.705	Examination – Esthetics Teacher
1175.710	Examination Requirements
1175.715	Application for Licensure
1175.720	Endorsement
1175.725	Renewals
1175.730	Restoration – Esthetics
1175.735	Restoration – Esthetics Teacher

SUBPART H: ESTHETICS SCHOOLS

Section

1175.800	Esthetics School Application
1175.805	Cosmetology Schools Approved to Teach Esthetics
1175.810	Physical Site Requirements
1175.815	Enrollment Agreements and Refund Policy
1175.820	Advertising
1175.825	Recordkeeping – Transcripts
1175.830	Recordkeeping – Hours Earned
1175.835	Curriculum Requirements – Esthetics
1175.840	Curriculum Requirements – Esthetics Teacher
1175.841	Curriculum Requirements – Esthetics Clinic Teacher
1175.845	Final Examination
1175.850	Change of Ownership
1175.855	Change of Location
1175.860	Change of Name

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1175.865 Expansion
- 1175.870 Discontinuance of Program
- 1175.875 Withdrawal of Approval

SUBPART I: CONTINUING EDUCATION – ESTHETICIAN/ESTHETICS TEACHER

Section

- 1175.900 Sponsor Approval (Repealed)
- 1175.905 Department Supervision (Repealed)
- 1175.910 Credit Hours (Repealed)
- 1175.915 Waiver of Continuing Education Requirements (Repealed)

SUBPART J: NAIL TECHNOLOGY

Section

- 1175.1000 Application for Licensure under Sections 3C-4 and 3C-5 of the Act (Grandfather) (Repealed)
- 1175.1001 Examination – Nail Technician
- 1175.1005 Examination – Nail Technology Teacher
- 1175.1010 Examination
- 1175.1015 Application for Licensure
- 1175.1020 Endorsement
- 1175.1025 Renewals
- 1175.1030 Restoration – Nail Technician
- 1175.1035 Restoration – Nail Technology Teacher

SUBPART K: NAIL TECHNOLOGY SCHOOLS

Section

- 1175.1100 Nail Technology School Application
- 1175.1105 Cosmetology Schools Approved to Teach Nail Technology
- 1175.1110 Physical Site Requirements
- 1175.1115 Enrollment Agreements and Refund Policies
- 1175.1120 Advertising
- 1175.1125 Recordkeeping – Transcripts
- 1175.1130 Recordkeeping – Hours Earned
- 1175.1135 Curriculum Requirements – Nail Technology
- 1175.1140 Curriculum Requirements – Nail Technology Teacher
- 1175.1141 Curriculum Requirements – Nail Technology Clinic Teacher

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.1145	Final Examination
1175.1150	Change of Ownership
1175.1155	Change of Location
1175.1160	Change of Name
1175.1165	Expansion
1175.1170	Discontinuance of Program
1175.1175	Withdrawal of Approval

SUBPART L: CONTINUING EDUCATION

Section

1175.1200	Sponsor Approval
1175.1205	Division Supervision
1175.1210	Credit Hours
1175.1215	Waiver of Continuing Education Requirements

SUBPART M: SALON OR SHOP REGISTRATION

Section

1175.1300	Application for a Barber Shop or Cosmetology, Nail Technology, Hair Braiding or Esthetics Salon Certificate of Registration
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[SUBPART N: HAIR BRAIDING](#)[Section](#)

1175.1400	Requirements for Licensure under Article III E of the Act (Grandfather)
1175.1405	Application for Licensure – Hair Braider
1175.1410	Application for Licensure – Hair Braiding Teacher
1175.1420	Renewals
1175.1430	Restoration – Hair Braider
1175.1435	Restoration – Hair Braiding Teacher

[SUBPART O: HAIR BRAIDING SCHOOLS](#)[Section](#)

1175.1500	Hair Braiding School Application
1175.1505	Cosmetology Schools Approved to Teach Hair Braiding
1175.1510	Physical Site Requirements
1175.1515	Enrollment Agreements and Refund Policies

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.1520	Advertising
1175.1525	Recordkeeping – Transcripts
1175.1530	Recordkeeping – Hours Earned
1175.1535	Curriculum Requirements – Hair Braiding
1175.1540	Curriculum Requirements – Hair Braiding Teacher
1175.1545	Final Examination
1175.1550	Change of Ownership
1175.1555	Change of Location
1175.1560	Change of Name
1175.1565	Expansion
1175.1570	Discontinuance of Program
1175.1575	Withdrawal of Approval

AUTHORITY: Implementing the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 12 Ill. Reg. 20488, effective November 29, 1988; emergency amendments at 13 Ill. Reg. 6810, effective April 10, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15034, effective September 7, 1989; amended at 14 Ill. Reg. 14090, effective August 20, 1990; amended at 16 Ill. Reg. 13276, effective August 18, 1992; amended at 18 Ill. Reg. 4856, effective March 14, 1994; amended at 21 Ill. Reg. 7277, effective May 29, 1997; amended at 23 Ill. Reg. 5749, effective April 30, 1999; amended at 27 Ill. Reg. 19293, effective December 11, 2003; amended at 30 Ill. Reg. 9503, effective May 10, 2006; amended at 35 Ill. Reg. 1888, effective January 20, 2011; amended at 35 Ill. Reg. 14983, effective September 9, 2011.

SUBPART A: GENERAL

Section 1175.100 Fees

- a) Licensure fees for cosmetologists, barbers, estheticians, [hair braiders](#), nail technicians, cosmetology teachers, cosmetology clinic teachers, barber teachers, esthetics teachers, esthetics clinic teachers, [hair braiding teachers](#), nail technology teachers and nail technology clinic teachers are:
 - 1) License. The fee for a license is \$30 and is to be submitted with the application.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 2) Examination. Applicants for any examination shall be required to pay, either to the Department of Financial and Professional Regulation – Division of Professional Regulation (Division) or to the designated testing service, a fee covering the cost of providing the examination.
 - 3) Renewal. The fee for renewal of a license shall be calculated at the rate of \$25 per year.
 - 4) Restoration. The fee for restoration of a license is \$50 plus payment of all lapsed renewal fees.
 - 5) Restoration From Inactive Status. The fee for restoration of a license from inactive status is the current renewal fee.
 - 6) Endorsement. The fee for a license for a cosmetologist, barber, esthetician, [hair braider](#), nail technician, cosmetology teacher, barber teacher, esthetics teacher, [hair braiding teacher](#), or nail technology teacher licensed under the laws of another jurisdiction is \$45.
- b) Licensure fees for cosmetology schools, barber schools, esthetics schools, [hair braiding schools](#) or nail technology schools are:
- 1) License. The fee for a license is \$150 plus the cost of inspection (\$50).
 - 2) Change of Ownership. The fee for a license resulting from a change of ownership is \$150 plus the cost of inspection (\$50).
 - 3) Change of Location. The fee for a license resulting from a change of location is \$150 plus the cost of inspection (\$50).
 - 4) Change of Name. The fee for a license resulting from a change of name is \$20.
 - 5) Renewal. The fee for renewal of a license shall be calculated at \$100 per year.
 - 6) Expansion. The fee for on-site and off-site expansion is \$50.
 - 7) Cosmetology School Approval to Teach Esthetics. The fee for approval to

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

upgrade to teach esthetics shall be the cost of the inspection (\$50).

- 8) Cosmetology School Approval to Teach Nail Technology. The fee for approval to upgrade to teach nail technology shall be the cost of the inspection (\$50).

- 9) [Cosmetology School Approval to Teach Hair Braiding. The fee for approval to upgrade to teach hair braiding shall be the cost of the inspection \(\\$50\).](#)

c) Salon Fees

- 1) Registration. The fee for registration of a barber shop or cosmetology, nail technician, [hair braiding](#) or esthetics salon (salon) is \$40.
- 2) Change of Name. The fee for changing the name or address of a registered barber shop or salon is \$20.
- 3) Renewal. The fee for renewal of a registration for a barber shop or salon is calculated at \$20 per year.

d) Sponsor Fees

- 1) Registration. The fee for registration as a continuing education sponsor shall be \$500.
- 2) Renewal. The fee for renewal as a continuing education sponsor shall be \$250 every two years. If a sponsor allows the registration to lapse, he/she will be required to submit \$500 to restore the registration.
- 3) State agencies, State colleges and State universities in Illinois who are approved as continuing education sponsors shall be exempt from registration and renewal fees.

e) General Fees

- 1) Duplicate/Replacement. The fee for the issuance of a duplicate or replacement license is \$20.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 2) Change of Name or Address. The fee for issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no license is issued.
- 3) Certification of Record. The fee for certification of a licensee's record for any purpose is \$20.
- 4) Wall Certificate. The fee for a wall certificate showing licensure is the actual cost of producing such a certificate.
- 5) Roster. The fee for a roster of persons licensed as cosmetologists, cosmetology teachers, cosmetology clinic teachers, barbers, barber teachers, estheticians, esthetics teachers, esthetics clinic teachers, nail technicians, nail technology teachers, nail technology clinic teachers, [hair braiders](#), [hair braiding teachers](#), cosmetology schools, esthetics schools, nail technology schools, [hair braiding schools](#), barber schools, and shops and salons is the actual cost of producing such a roster.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART B: BARBER

Section 1175.230 Restoration – Barber

- a) A person applying for restoration of his/her license as a barber that has been expired for less than 5 years shall submit an application on forms provided by the Division and ~~the required fee \$10 plus payment of lapsed renewal fees as~~ set forth in Section 1175.100(a)(4). If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of his/her license as a barber that has been expired for 5 years or more shall submit an application on forms provided by the Division along with:
 - 1) Verification of employment as a barber in another jurisdiction within the 5 years preceding application for restoration;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 2) Certification of licensure from the licensing authority in the jurisdiction of employment;
 - 3) A completed Restoration Questionnaire;
 - 4) The required fee set forth in Section 1175.100; or
 - 5) If restoring from active military service, a copy of the applicant's DD-214 and the current renewal fee.
- c) An applicant for restoration who has not maintained a practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour refresher course from a licensed barber or cosmetology school or successful completion of the examination set forth in Section 1175.210 within 2 years before application for restoration.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART D: COSMETOLOGY

Section 1175.420 Endorsement

- a) An applicant who is currently registered or licensed as a cosmetologist in a foreign country or province~~another jurisdiction~~ and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) An official~~A~~ certification ~~from the state~~ of original~~original~~ licensure from the Government Board or Council in the applicant's jurisdiction of original licensure stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a:~~A~~ A brief description of any licensure examination taken to qualify for the license and the grades received; and whether~~B) Whether~~ the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) An official transcript~~Official transcripts~~ from the school or schools

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

attended by the applicant showing the individual subject areas~~programs~~ completed and the hours completed by the applicant~~received~~ with the school seal affixed or an official certification~~a verification~~ from the Government Board or Council showing the individual subject areas completed and~~licensing authority of the~~ number of hours completed~~by required for licensure at the time~~ the applicant with the Board or Council seal affixed~~was originally licensed~~;

- 3) An official certification~~Certification~~ of current~~current~~ licensure from the state or country in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending~~licensure~~;
- 4) Evidence that the applicant has practiced cosmetology in another jurisdiction for at least 3 years after completing the requirements to qualify for registration or licensure in that particular jurisdiction. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a cosmetologist;~~Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if: A) The jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or B) The applicant is applying under Section 3-8 of the Act;~~
- 5) Any document submitted in a foreign language must be accompanied by an original, notarized English translation. The translator must certify on the translation that he or she is fluent in English and the language of the document. The translator must certify to the accuracy of the translation;
- ~~6) 5)~~ Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and
- ~~7) 6)~~ The required fee set forth in Section 1175.100;~~;~~ and
- ~~7)~~ A copy of the licensing Act applicable on the date of original licensure

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

~~showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.~~

- b) An applicant who is currently licensed as a cosmetologist in another state or territory of the United States and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) An official certification of licensure from the state board in the applicant's jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and
 - 3) The required fee set forth in Section 1175.100.
- c) An applicant who is currently registered or licensed as a cosmetology teacher ~~or cosmetology clinic teacher~~ in a foreign country or province ~~another jurisdiction~~ and who is seeking licensure as a cosmetology teacher ~~or cosmetology clinic teacher~~ in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) An official~~A~~ certification ~~from the state~~ of ~~original~~ licensure from the Government Board or Council in the applicant's jurisdiction of original licensure stating the applicant's legal name, the cosmetology teacher license number, the original issuance date, the expiration date, ~~a~~~~A~~ brief description of any licensure examination taken to qualify for the license and the grades received; and ~~whether~~~~B~~~~Whether~~ the applicant's file contains any record of disciplinary action taken or pending;
 - 2) An official transcript~~Official transcripts~~ from the school or schools

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

attended by the applicant showing the individual subject areas programs completed and the hours completed by the applicant received with the school seal affixed or an official certification verification from the Government Board or Council showing the individual subject areas completed and licensing authority of the number of hours completed by required for licensure at the time the applicant with the Board or Council seal affixed was originally licensed;

- 3) An official certification Certification of current licensure from the state or country in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending licensure;
- 4) Evidence that the applicant has practiced as a cosmetology teacher in another jurisdiction for at least 3 years after completing the requirements to qualify for registration or licensure in that particular jurisdiction. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a cosmetology teacher One of the Following: A) Two Verification of Employment forms submitted by an applicant who completed a program of at least 500 hours of teacher training. A cosmetology teacher applicant shall verify 2 years of lawful practice as a cosmetologist; or B) Two Verification of Employment forms submitted by an applicant who completed a program of at least 250 hours of clinic teacher training. A cosmetology clinic teacher applicant shall verify 2 years of lawful practice as a cosmetologist; or C) Two completed Verification of Employment forms showing at least 3 years of lawful practice as a cosmetology teacher or cosmetology clinic teacher submitted by an applicant who is applying as a cosmetology teacher or cosmetology clinic teacher on the basis of 3 years of lawful practice;
- 5) Any document submitted in a foreign language must be accompanied by an original, notarized English translation. The translator must certify on the translation that he or she is fluent in English and the language of the document. The translator must certify to the accuracy of the translation;
- 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

court order) if name is other than that shown on any of the documents submitted; and

~~7)6)~~ The required fee set forth in Section 1175.100~~, and~~

~~7)~~ ~~A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.~~

d) An applicant who is currently licensed as a cosmetology teacher in another state or territory of the United States and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:

1) An official certification of licensure from the state board in the applicant's jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetology teacher license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;

2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and

3) The required fee set forth in Section 1175.100.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or training is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide information as may be necessary;

2) Appear for an interview before the Board to explain the relevance or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

sufficiency, clarify information or clear up any discrepancies or conflicts in information; and/or

3) Pass an examination pursuant to Section 3-8 of the Act or complete a 250 hour refresher course at a licensed cosmetology or barber school.

f)e) An applicant for licensure as a cosmetologist who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a cosmetologist. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Division in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

g)d) An applicant applying for licensure as a cosmetologist or cosmetology teacher ~~or cosmetology clinic teacher~~ on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.410(c). The successful completion of the substantially equivalent examination and fulfillment of applicable requalification requirements must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART H: ESTHETICS SCHOOLS

Section 1175.805 Cosmetology Schools Approved to Teach Esthetics

- a) Existing cosmetology schools that wish to provide esthetics instruction shall:
- 1) provide 200 square feet of space to accommodate 5 work stations and a maximum of 10 students. If attendance exceeds 10 on the clinic floor at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(B) of this Section. The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 2) File an application with the Division, on forms provided by the Division, which shall include:
 - A) A detailed floor plan;
 - B) A signed copy of fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as a school;
 - C) A ~~financial~~ statement prepared by a ~~licensed~~ certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, showing that the owner has indicating sufficient ~~current~~ finances ~~exist~~ to operate the school for at least 3 months;
 - D) A copy of the enrollment agreement to be used by the school;
 - E) A copy of the esthetics curriculum;
 - F) A listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - G) A copy of the school's official transcript; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance.
- 4) In addition, the school shall have the following:
 - A) ~~At least one facial chair for every 2 students enrolled.~~ At least one work station or position for every 2 students. Every work station shall include 1 facial chair, 1 steamer, 1 magnification lamp and 1 wood lamp.
 - B)C) Every ~~school work station~~ shall also have 1 set of facial equipment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

to include manual, mechanical, or electrical apparatus as follows:

- i) ~~Steamer~~ ii) Brushing
- ~~ii)iii)~~ Vacuum/spray machine
- ~~iii)iv)~~ Glass electrode or high frequency current; and
- ~~iv)v)~~ Disencrustation machine.
- vi) ~~One magnification lamp~~
- vii) ~~Woods lamp.~~

D) Provide an esthetics curriculum in accordance with Sections 1175.835 and 1175.840.

- b) Cosmetology schools approved to teach esthetics shall be required to comply with all provisions in this Part except for Section 1175.810(a) and (b).

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.810 Physical Site Requirements

- a) Space Requirements
- 1) A school shall have a minimum of 1,800 square feet for a maximum of 20 students. An additional 40 square feet is required for each additional student if attendance exceeds 20 on the clinic floor at any given time.
 - 2) The school shall be partitioned to provide for the following areas:
 - A) Dispensary
 - B) Student Spa~~Laboratory~~
 - C) Classrooms
 - D) Separate restrooms for males and females

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- E) Cloak space
 - F) Public waiting area separated from the work area
 - G) Student lounge area
 - H) Storage space
 - I) Locker space
 - J) Conference room
 - K) Other areas for school administration
 - L) Work stations.
- 3) All areas of the school shall be ventilated and lighted.
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school;
 - 2) A school seal;
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned;
 - 4) ~~A minimum of 10 facial chairs. For enrollment over 20, one facial chair per 2 students;~~ 5) A minimum of ~~5~~10 work stations. Every work station shall include 1 facial chair, 1 steamer, 1 magnification lamp and 1 wood lamp~~For enrollment over 20, 1 work station or position per 2 students;~~
 - 5) ~~6)~~ Every school station shall also have 1 set of facial equipment to include manual, mechanical, or electrical apparatus as follows:
 - A) ~~Steamer B)~~Brushing;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

~~B)C)~~ Vacuum/spray machine;

~~C)D)~~ Glass electrode or high frequency current; and

~~D)E)~~ Disencrustation machine;

~~F)~~ ~~Magnification lamp~~

~~G)~~ ~~Wood lamp~~;

~~6)7)~~ Trays for facial supplies;

~~7)8)~~ One dry sterilizer per 2 work stations;

~~8)9)~~ One facial supply cabinet containing astringents, lotions, creams, makeup and other necessary supplies for facials;

~~9)10)~~ Desk/table space and a chair for each student in the classroom;

~~10)11)~~ Adequate covered disposal cans placed at convenient locations;

~~11)12)~~ One covered container for soiled towels for each 10 students in clinical work area;

~~12)13)~~ Closed cabinets equipped for storing towels; and

~~13)14)~~ One head form or chart per class.

c) Sanitary Regulations

- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
- 2) All instruments shall be sanitized before and after use on each patron.
- 3) Clean towels shall be used for each patron.
- 4) Hands must be cleansed before and after serving each patron.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 5) After each patron is served, electrical equipment must be sanitized according to manufacturer's specifications. All other equipment should be washed in water and sanitized before use.
 - 6) The head rests of any chair shall be protected with a disposable cover and changed after each patron.
 - 7) Non-disposable head coverings must be laundered and sanitized after each separate use.
 - 8) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
 - 9) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
 - 10) No animals or pets, except animal assistants for the physically impaired, shall be permitted on school premises.
 - 11) The floors, walls and furniture shall be kept clean at all times.
 - 12) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
 - e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART L: CONTINUING EDUCATION

Section 1175.1210 Credit Hours

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- a) With the exception of program hours earned under subsection (e) of this Section, an approved CE program hour shall include at a minimum 50 minutes of actual class time, exclusive of time devoted by participants to pre-class or post-class preparation.
- b) Participants completing courses at a university or college shall receive 15 CE credit hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- c) A licensee who serves as an instructor, speaker or discussion leader of an approved course shall be allowed CE credit for actual presentation time. For preparation time, 1 hour of credit will be awarded for each 2 hours of actual presentation time. Preparation time for repetitious presentations shall not receive credit. No more than 10 hours can be earned under this subsection during any renewal period.
- d) Credit shall be awarded for successful completion of courses taken pursuant to continuing education requirements in another state. Credit hours shall be awarded as stated in subsections (a), (b) and (c).
- e) Renewal applicants may earn a maximum of 50% of the total hours required for each renewal through completion of individual study courses (see Section 1175.1200(c)(6)).
- f) Continuing Education Earned in Other States. If a licensee has earned CE hours in another state or territory for which he/she will be claiming credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form along with a \$10 processing fee within 90 days after completion of the course. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
- g) For the first renewal of the license, a licensee who obtained a hair braider or hair braiding teacher license under Section 1175.1400 (grandfather) shall successfully complete at least 65 hours of relevant training in health, safety, hygiene and business management.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART M: SALON OR SHOP REGISTRATION

Section 1175.1300 Application for a Barber Shop or Cosmetology, [Nail Technology](#), [Hair Braiding](#) or Esthetics Salon Certificate of Registration

- a) Pursuant to Article IIID of the Act, all cosmetology, nail technology, [hair braiding](#) or esthetics salons and barber shops shall obtain a certificate of registration from the Division in order to operate in Illinois. The owner shall file an application with the Division, on forms supplied the Division. The application shall include the following:
- 1) If the application is for a change of ownership, the salon or shop registration number of previous owner, a signed, dated statement from previous owner, and original salon or shop certificate registration;
 - 2) Ownership structure: individual/sole proprietorship, corporation, limited liability company (LLC) or partnership;
 - 3) Name, address and telephone number of owner. If a corporation, LLC, or partnership, the name, address and telephone number of chief executive officer (CEO) or managing partner;
 - 4) Federal employer identification number (FEIN) of owner ;
 - 5) Name, address and telephone number of salon or shop;
 - 6) Franchise disclosure;
 - 7) Name and license number of any owner, managing partner or CEO holding an Illinois license in any profession regulated under the Act;
 - 8) If an Illinois corporation, a copy of the entire Articles of Incorporation as filed with the Illinois Secretary of State;
 - 9) If a foreign corporation, a copy of the entire Articles of Incorporation as filed with the jurisdiction where the corporation is registered and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 10) If an LLC, a copy of the entire Articles of Organization as filed with the Illinois Secretary of State;
 - 11) If a foreign LLC, a copy of the entire Articles of Organization as filed with the jurisdiction where the LLC is organized and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
 - 12) If a partnership, a copy of the signed and dated partnership agreement including the name of the partnership, business address and name of each partner;
 - 13) If a franchise, a copy of the signed and dated franchise agreement showing that franchisee has been granted the right to use trade name, trademark, service name, service mark or any other right to the exclusive use of names or symbols;
 - 14) If using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name;
 - 15) [The required fee set forth in Section 1175.100.](#)
- b) Registration Requirements. The requirement to obtain a certificate of registration from the Division is only applicable to salons or shops offering cosmetology, esthetics, nail technology, [hair braiding](#) or barbering services. A separate certificate of registration is required for each salon or shop location. A separate application, fee and supporting documents shall be submitted to the Division. The Division may reject any application including a business name that states or implies a service that cannot be legally offered by the business, which is misleading to consumers, or is otherwise inconsistent with the purposes of the Act.
 - c) Change of Location. The owner shall file written notice with the Division at least 30 days in advance of the change of location of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, new address of salon or shop and effective date of change. The notice shall be accompanied by the original certificate of

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

registration and a \$20 reprint fee. The Division shall reprint the certificate of registration with the new salon or shop address.

- d) Change of Ownership. When the ownership of a salon or shop changes, the new owner shall, within 5 working days after the date of sale, file with the Division an affidavit stating that the sale is contingent on a certificate of registration being issued to the new owner. If this is not provided, the salon or shop must close and remain closed until a certificate of registration is issued to the new owner. The new owner shall obtain a certificate of registration from the Division as set forth in subsection (a) of this Section.
- e) Change of Name. The owner shall file written notice with the Division at least 30 days in advance of the change of name of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, previous name of salon or shop, address of salon or shop, new name of salon or shop and effective date of change. The notice shall be accompanied by the original certificate of registration, a \$20 reprint fee, and if using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.
- f) Renewal. All certificates of registration shall expire on November 30 of even numbered years. A salon or shop may renew the certificate of registration during the 2 months preceding the expiration date by paying the required fee.
- g) Restoration. An owner seeking restoration of a certificate of registration that has expired or been placed on inactive status shall file written notice with the Division. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, current address of salon or shop, and \$40 fee. If using an assumed name, the notice shall also include a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.

(Source: Amended at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART N: HAIR BRAIDING

Section 1175.1400 Requirements for Licensure under Article III E of the Act (Grandfather)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- a) An applicant for licensure as a hair braider under the grandfather provision shall file an application with the Division postmarked no later than December 31, 2012, together with:
- 1) Proof that the applicant has practiced hair braiding for at least 2 consecutive years immediately prior to the date of his or her application. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a hair braider. The applicant may provide tax records in lieu of one of the required affidavits; and
 - 2) The required fee set forth is Section 1175.100.
- b) An applicant for licensure as a hair braiding teacher under the grandfather provision shall file an application with the Division postmarked no later than December 31, 2012, together with:
- 1) Proof that the applicant has practiced hair braiding for at least 2 consecutive years immediately prior to the date of his or her application. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a hair braider. The applicant may provide tax records in lieu of one of the required affidavits; and
 - 2) The required fee set forth in Section 1175.100.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the work experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1175.1405 Application for Licensure – Hair Braider

- a) An applicant for hair braider licensure who does not meet the requirements of Section 1175.1400 (grandfather) shall file an application on forms provided by the Division, together with:
- 1) An official transcript showing successful completion of the required training outlined in Section 3E-2(a)(3) of the Act and Section 1175.1535 of this Part and a passing grade on the final examination administered by the school as set forth in Section 1175.1545 of this Part; and
 - 2) The required fee set forth in Section 1175.100.
- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1410 Application for Licensure – Hair Braiding Teacher

- a) An applicant for hair braiding teacher licensure who does not meet the requirements of Section 1175.1400 (grandfather) shall file an application on forms provided by the Division, together with:
- 1) An official transcript showing successful completion of the required training outlined in Section 3E-3 of the Act and Section 1175.1540 of this Part and a passing grade on the final examination administered by the school as set forth in Section 1175.1545 of this Part; and
 - 2) The required fee set forth in Section 1175.100.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1420 Renewals

- a) The first hair braider, hair braiding teacher and hair braiding school licenses issued under the Act shall expire on October 31, 2014. Thereafter, every license issued under the Act shall expire on October 31 of each even numbered year. The holder of a license may renew the license during the month preceding its expiration date.
- b) First and Subsequent Renewal
- 1) For the first renewal of the license, a licensee who obtained a hair braider or hair braiding teacher license under Section 1175.1400 (grandfather) shall:
 - A) Return a completed renewal application;
 - B) Certify on the renewal application that he or she has successfully completed at least 65 hours of relevant training in health, safety, hygiene and business management in accordance with the requirements of Section 1175.1210(g);
 - C) Submit the required fee set forth in Section 1175.100.
 - 2) Subsequent renewals must comply with the renewal requirements set forth in subsection (c).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- c) Applicants for renewal shall:
- 1) Return a completed renewal application.
 - 2) Hair Braider. Certify on the renewal application that they have successfully completed a minimum of 10 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the expiration date of the license.
 - 3) Hair Braiding Teacher. Certify on the renewal application that they have successfully completed a minimum of 20 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the expiration date of the license. Ten of the 20 hours shall be in the following areas:
 - A) Teaching Methodology;
 - B) Educational Psychology;
 - C) Classroom Management; or
 - D) Other teaching related courses.
 - 4) Submit the required fee set forth in Section 1175.100.
- d) A renewal applicant is not required to comply with continuing education requirements for the first renewal after issuance of the original license except for licensees who obtained a hair braider or hair braiding teacher license under Section 1175.1400 (grandfather).
- e) The Division may require additional evidence demonstrating compliance with the continuing education requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The evidence shall be required in the context of the Division's random audit.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- f) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew a license.
- g) Practicing or operating on a license that has expired shall be consider unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1430 Restoration – Hair Braider

- a) Application for Restoration
 - 1) A person applying for restoration of a license as a hair braider that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and
 - B) Provide evidence of successful completion of 10 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the application for restoration.
 - 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as a hair braider that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
 - 1) All of the following:
 - A) Verification of lawful employment as a hair braider in another jurisdiction within the 5 years preceding application for restoration;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that the practice was authorized;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 10 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200 of this Part, within the 2 years prior to the application for restoration; and
 - E) The required fee set forth in Section 1175.100; or
- 2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.
- c) A person applying for restoration under subsection (b) who has not maintained lawful employment as a hair braider in another jurisdiction shall also submit evidence of successful completion of at least 65 hours of relevant training in health, safety, hygiene and business management, in accordance with the requirements of Section 3E-2 of the Act, within the 2 years prior to the application for restoration.
 - d) Practicing or operating on a license that has expired shall be consider unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1435 Restoration – Hair Braiding Teacher

- a) Application for Restoration
 - 1) A person applying for restoration of a license as a hair braiding teacher that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and
 - B) Provide evidence of successful completion of 20 hours of continuing education from a sponsor registered with the Division,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

in accordance with Section 1175.1200, within the 2 years prior to the application for restoration.

- 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.

- b) A person applying for restoration of a license as a hair braiding teacher that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
 - 1) All of the following:
 - A) Verification of lawful employment as a hair braiding teacher in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that the practice was authorized;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 20 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the application for restoration; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.

- c) A person applying for restoration under subsection (b) who has not maintained lawful employment as a hair braiding teacher in another jurisdiction shall also submit evidence of successful completion of at least 65 hours of relevant training in health, safety, hygiene and business management, in accordance with the requirements of Section 3E-2 of the Act, within the 2 years prior to the application for restoration.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- d) Practicing or operating on a license that has expired shall be consider unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

SUBPART O: HAIR BRAIDING SCHOOLSSection 1175.1500 Hair Braiding School Application

- a) An applicant for a hair braiding school license shall submit a completed application to the Division with the following information and documentation:
- 1) Name, address and telephone number of the person, corporation or other entity that owns the school;
 - 2) If the school is owned by a legal entity other than an individual, the name, address and telephone number of the chief executive officer of the corporation or other legal entity that owns the school;
 - 3) Name, address and telephone number of the school;
 - 4) Name, address and telephone number of the chief managing employee;
 - 5) If the school is owned by a legal entity formed in Illinois (domestic), a copy of the required business filing with the Illinois Secretary of State;
 - 6) If the school is owned by a legal entity formed outside of Illinois (foreign), a copy of the required filing from that jurisdiction and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
 - 7) If the school is owned by a partnership, a copy of the signed and dated partnership agreement including the name of the partnership and the name, address and telephone number of each partner;
 - 8) If the school name is different from the owner's full legal name, a certificate from the Illinois Secretary of State showing authorization to transact business under an assumed name or certificate from the county clerk's office where the assumed name is filed;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 9) A Commitment Statement from each officer of a corporation, each manager or member of a limited liability company or each member of partnership;
- 10) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;
- 11) A detailed floor plan consistent with the requirements of Section 1175.1510. Floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;
- 12) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the school site;
- 13) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
- 14) A statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;
- 15) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
- 16) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
- 17) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525;
- 18) A copy of the final examination to be used by the school, which shall be consistent with the requirements of Section 1175.1545;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 19) A sample of the school seal to be used by the school;
 - 20) A photograph of the school sign to be used by the school; and
 - 21) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not begin nor shall the school in any way solicit student enrollment until the school has received notice of approval from the Division. Approval shall be granted if all the requirements of this Subpart O have been met.
- c) Hair braiding schools shall only offer instruction in hair braiding and hair braiding teacher education.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1505 Cosmetology Schools Approved to Teach Hair Braiding

- a) Existing cosmetology schools that wish to provide a course of instruction in hair braiding shall:
- 1) Provide at least 200 square feet of work space to accommodate 5 work stations. If attendance exceeds 10 in the work space at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(E). The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.
 - 2) File an application with the Division, on forms provided by the Division, that shall include:
 - A) A detailed floor plan consistent with the requirements of this Section. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- B) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
 - C) A statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;
 - D) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
 - E) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
 - F) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;
 - G) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. The school shall not solicit student enrollment for the hair braiding program until the school has received notice of approval from the Division. Approval shall be granted if all the requirements of this Section have been met.
- 4) In addition, the school shall have the following:
- A) Desk/table space and chairs suitable for demonstrating hair braiding practices for each licensed teacher in the classroom.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- B) 1 mannequin practice table to accommodate at least 5 students.
 - C) 1 shampoo bowl and chair with adequate hot and cold running water.
 - D) 1 dryer and chair.
 - E) At least 1 work station, including a styling chair for every 2 students in attendance.
 - F) 1 mannequin for each student in attendance.
 - G) Sufficient hair braiding tools, devices and supplies for each student in attendance.
 - H) 1 cape for each student in attendance.
- b) Cosmetology schools approved to teach hair braiding shall be required to comply with all provisions in this Part except Section 1175.1510(a) and (b).

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1510 Physical Site Requirements

- a) Space Requirements
 - 1) A hair braiding school shall have a minimum of 650 square feet of work space for a maximum of 10 students. If attendance exceeds 10 in the work space at any time, an additional 40 square feet is required for each additional work station required by subsection (b)(10).
 - 2) Work space shall include only the dispensary and laboratory area.
 - 3) A hair braiding school shall have at least 1 classroom of no less than 150 square feet for a maximum of 10 students. If attendance exceeds 10 in the classroom at any time, an additional 30 square feet of classroom space is required for each additional student.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Classroom shall be equipped with desk/table space and chairs suitable for classroom work and demonstrating hair braiding practices.
 - 5) Locker space shall be provided for the number of students in attendance at any time.
 - 6) A student lounge area shall be provided that is separated from the work space.
 - 7) Separate restrooms for males and females shall be provided.
 - 8) A public waiting area shall be provided that is separated from the work space.
 - 9) Cloak space shall be provided that may be used both by students and the public. Cloak space must be separated from the work space.
 - 10) All areas of the school shall be lighted and ventilated.
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school.
 - 2) A school seal.
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned.
 - 4) Desk/table space and a chair suitable for classroom work for each student in the classroom.
 - 5) Desk/table space and chairs suitable for demonstrating hair braiding practices for each licensed teacher in the classroom.
 - 6) Locker space for each student in attendance.
 - 7) 1 mannequin practice table to accommodate at least 5 students.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 8) 1 shampoo bowl and chair with adequate hot and cold running water.
 - 9) 1 dryer and chair.
 - 10) 5 work stations with styling chairs. If attendance exceeds 10 in the work space at any time, at least 1 additional work station with a styling chair for every 2 students.
 - 11) One mannequin for each student in attendance.
 - 12) Sufficient hair braiding tools, devices and supplies for each student in attendance.
 - 13) One cape for each student in attendance.
 - 14) Storage drawers for hair braiding tools, devices and supplies.
 - 15) Adequate covered waste disposal containers placed at convenient locations.
 - 16) Closed or covered space equipped for storing clean towels. Space shall be large and sturdy enough to store 5 dozen towels per 10 students in the work area.
 - 17) One covered container for soiled towels for each 10 students in the work area. Containers shall be large and sturdy enough to store soiled towels.
 - 18) Adequate lighting and ventilation shall be provided as required by the city, county or municipality.
- c) Sanitary Regulations
- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
 - 2) New or cleaned and disinfected tools and devices shall be used for each patron.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 3) After each patron is served, combs, brushes and scissors must be cleaned, then immersed in a disinfectant as specified by the manufacturer's instructions, then rinsed in water and dried. They shall be kept in a closed container separately from items that have not been disinfected.
- 4) Clean towels shall be used for each patron.
- 5) A neck strip or towel shall be placed around the patron's neck, and changed after each use, to prevent direct contact between a common use hair cloth or cape and the patron's skin.
- 6) The head rests of each styling chair shall be protected with a head cover or a cleaned and disinfected towel. Disposable head covers shall be changed after each patron. Non-disposable head covers shall be cleaned and disinfected before use on a patron. Towels shall be cleaned and disinfected before use on a patron.
- 7) Teachers and students shall observe and follow thorough hand washing with soap and water or any equally effective cleansing solution or waterless hand sanitizer before and after serving each patron.
- 8) Shampoo bowls and sinks shall be clean and free of hair and residue after each use.
- 9) All disinfecting agents shall be kept at adequate strengths to maintain effectiveness, be free of residue and be available for immediate use at all times the school is open for business.
- 10) Oils and other items used within the field of practice that are subject to cross-contamination shall be kept in clean, closed containers. They shall be dispensed from containers to prevent contamination of the unused portion.
- 11) All clean towels shall be kept in a closed or covered space, separately from soiled towels, that is equipped for storing towels.
- 12) All soiled towels shall be kept in a covered container. Containers shall be large and sturdy enough to store soiled towels after use.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 13) Storage drawers for clean tools, devices and supplies shall be kept clean and free of residue and used only for clean tools, devices and supplies.
 - 14) Storage cabinets, work stations and vanities shall be kept clean and free of residue.
 - 15) Floor surfaces shall be kept clean, orderly and in good repair.
 - 16) Walls, doors, windows and ceilings shall be clean and free of excessive spots, mildew, condensation or peeling paint.
 - 17) Equipment, mirrors, lights and similar closures, furnishings, attached equipment, decorative materials and fixtures shall be kept clean and in good repair.
 - 18) Outer surfaces of waste disposal containers shall be kept clean.
 - 19) All schools shall provide adequate ventilation as required by the city, county or municipality to keep the school free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.
 - 20) All schools shall provide a safe and adequate supply of continuous hot and cold running water from an approved source. Sinks located in the restroom do not qualify as a water source.
 - 21) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease, as defined in 77 Ill. Adm. Code 690, to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
 - 22) Pets or other animals shall not be permitted in a school at any time. This prohibition does not apply to an animal assistant for the physically impaired.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
- e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1515 Enrollment Agreements and Refund Policies

- a) All licensed hair braiding schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.
- b) All licensed hair braiding schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.
 - 1) When notice of cancellation is given within 5 days after the date of enrollment, all application and registration fees, tuition and any other charges shall be refunded to the student.
 - 2) When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain the application and registration fee, not to exceed \$100 and the cost of any books or materials that have been provided by the school and retained by the student (Section 3B-13(b) of the Act).
 - 3) When notice of cancellation is given after the student's completion of the first day of class attendance but prior to the student's completion of 5% of the course of instruction, the school may retain the application and registration fee, not to exceed \$100, 10% of the tuition, other instructional charges or \$300, whichever is less, and the cost of any books or materials that have been provided by the school and retained by the student.
 - 4) When a student has completed 5% or more of the course of instruction, the school may retain the application fee and registration fee, not to exceed \$100 and the cost of any books or materials provided by the school, but shall refund a part of the tuition and other instructional charges in accordance with the requirements of the school's regional or national accrediting agency, if any, or in accordance with subsection (c) of this Section.
- c) For students who enroll in and begin classes, the following schedule of tuition adjustment will be considered to meet the Division standards for refunds:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

<u>PERCENTAGE OF A SCHEDULED COURSE COMPLETED</u>	<u>AMOUNT OF TUITION OWED TO THE SCHOOL</u>
<u>0.01% to 4.9%</u>	<u>10%</u>
<u>5% to 9.9%</u>	<u>30%</u>
<u>10% to 14.9%</u>	<u>40%</u>
<u>15% to 24.9%</u>	<u>45%</u>
<u>25% to 49.9%</u>	<u>70%</u>
<u>50% and over</u>	<u>100%</u>

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1520 Advertising

All school advertising for patrons must contain the words "Work Done Exclusively by Students" or "All Work Done by Students" displayed in a conspicuous manner.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1525 Recordkeeping – Transcripts

- a) Each hair braiding school shall provide an official transcript showing the entire program work of each student. The official transcript shall contain the following information:
- 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of the owner, registrar or director of the school;
 - 5) Student's name, address and social security number;
 - 6) Actual dates student attended;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours citing the name and address of the school transferred from, subject areas, hours earned and grades received;
 - 9) Final examination grades; and
 - 10) Graduation date.
- b) The official transcript and school records for each student who completed the program shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet.
 - 2) If records cannot be maintained on the premises in locked fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. The records shall be accessible to Division officials for inspection.
- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 7 years from the student's first day of attendance at the school.
- d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school, provided the student has met all financial obligations set forth in the enrollment agreement set forth in Section 3B-12 of the Act.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1530 Recordkeeping – Hours Earned

- a) Student Hours. A licensed hair braiding school shall have a written, published attendance policy.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) When determining student hours, a school may define its attendance requirements to include 100% attendance for the program length or may allow excused absences for not more than 10% of the program for satisfactory completion. Satisfactory completion is defined as completion of all theory and practical work as outlined in the school's curricula.
 - 2) Student attendance policies shall be written and applied uniformly and fairly.
 - 3) The school must maintain documentation of excused absences for a period of not less than 5 years.
 - 4) The school must maintain attendance records for each student to verify that the minimum attendance standard set forth by the school is being met.
- b) A complete and accurate record of hours of attendance for each student must be recorded and maintained by the school.
 - c) If a time clock is used, each student shall punch his/her own time card. No student, teacher or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the school to record student hours. The records must be in a form that allows the student to receive a written report of hours earned. This report of hours earned shall be provided to the student on a monthly basis.
 - d) Credit for hours earned away from the school premises shall be awarded only if students are supervised by a qualified teacher who is the holder of a current hair braiding teacher license or cosmetology teacher license issued by the Division or by a licensed cosmetologist or a licensed hair braider in the case of an internship. Credit hours for outside study may include workshops, educational programs, films, demonstrations and internship training in a registered salon.
 - e) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include the school seal, name of student, event or program attended, date attended, signature of student, signature of supervising licensed teacher.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- f) A qualified teacher who is the holder of a current hair braiding teacher license or cosmetology teacher license issued by the Division shall review the hours earned by each student monthly. Each month the teacher shall issue a signed monthly report to the student showing the actual number of hours earned by the student.
- g) Time cards may be destroyed after two years from the student's permanent exit from the school and after all hours earned are recorded on the official transcript.
- h) An hour is 60 minutes of instruction but not less than 50 minutes.
- i) A qualified teacher who is the holder of a current hair braiding teacher license or cosmetology teacher license issued by the Division shall supervise all classroom and practical instruction. No credit shall be given for unsupervised study.
- j) A student enrolled in the 300-hour hair braiding program may practice on the public only after completing 35 hours of general theory, practical application, and technical application instruction as specified in Section 3E-2 of the Act.
- k) A student enrolled in the 600-hour or 500-hour hair braiding teacher program may practice student teaching only after completing 20 hours of Educational Psychology and 20 hours of Teaching Methods as specified in Section 1175.1540.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1535 Curriculum Requirements – Hair Braiding

Each licensed hair braiding school shall provide a program consisting of a minimum of 300 clock hours or a 10 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:

- a) Basic Training – 35 hours of classroom instruction in general theory, practical application and technical application shall be provided in the following subject areas:
 - 1) history of hair braiding
 - 2) disinfection and sanitation
 - 3) bacteriology

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 4) disorders and diseases of the hair and scalp
 - 5) OSHA standards relating to material safety data sheets (MSDS) on chemicals, hair analysis and scalp care, and technical procedures
 - 6) personal hygiene and public health
 - 7) professional ethics
- b) Related Concepts – 35 hours of classroom instruction shall be provided in the following subject areas:
- 1) tools and equipment
 - 2) basic styling knowledge
 - 3) client consultation and face shapes
 - 4) growth patterns
 - 5) braid removal and scalp care
 - 6) styles and sectioning
 - 7) client education, pre-care, post-care, home care and follow-up services
- c) Practices and Procedures – 200 hours of instruction, which shall be a combination of classroom instruction and clinical instruction, shall be provided in the following subject areas:
- 1) single braids with and without extensions
 - 2) cornrows with and without extensions
 - 3) twists and knots
 - 4) multiple strands

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 5) [hair locking](#)
 - 6) [weaving/sewn-in](#)
 - 7) [other procedures as they relate to hair-braiding](#)
 - 8) [product knowledge as it relates to hair braiding](#)
- d) [Business Practices – 30 hours of classroom instruction shall be provided in the following subject areas:](#)
- 1) [Illinois Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 and rules](#)
 - 2) [salon management](#)
 - 3) [human relations and salesmanship](#)
 - 4) [Workers' Compensation Act](#)
- e) [A student may practice on the public only after completing 35 hours of general theory, practical application, and technical application instruction as specified in Section 3E-2 of the Act.](#)
- f) [Internship program is an optional part of the curriculum. Each licensed hair braiding school may choose to set up an internship program and shall adhere to the following guidelines:](#)
- 1) [An internship program:](#)
 - A) [May be substituted for 30 hours of the 300 hours required by this Section.](#)
 - B) [May be part of the curriculum of a licensed hair braiding school and shall be an organized pre-planned training program designed to allow a student to learn hair braiding under the direct supervision of a licensed cosmetologist or licensed hair braider in a registered salon.](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 2) A student in the internship program:
 - A) May participate in an internship program only after completing 150 hours of training with a minimum average grade of 80 out of 100. A school may, however, set the average grade higher and set other standards that a student must meet to participate in the internship program.
 - B) May not spend more than 30 hours in an internship program.
 - C) May not be paid while participating in this internship program as it is a part of the hair braiding curriculum of the school.
 - D) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.
 - E) Shall be under the direct, on-site supervision of a licensed cosmetologist or licensed hair braider. Only 1 student shall be supervised by 1 licensed cosmetologist or 1 licensed hair braider at any given time.
- 3) A licensed hair braiding school shall state clearly in the student contract that the school offers an internship program.
- 4) The licensed hair braiding school shall enter into a written internship contract with the student, the registered salon, and the licensed cosmetologist or licensed hair braider. The contract shall contain all the provisions set forth in subsection (f)(2) and any other requirements of the internship established by the school. The contract shall be signed by the student, an authorized representative of the school, and the licensed cosmetologist or licensed hair braider who will supervise the student. Any party to the contract may terminate the contract at any time.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1540 Curriculum Requirements – Hair Braiding Teacher

- a) An approved hair braiding school that intends to provide hair braiding teacher training must utilize a teacher program that includes a minimum of 600 clock

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

hours or a 20 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:

- 1) 100 hours of Post-Graduate School Training that includes subjects in the basic curriculum in Section 1175.1535, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education.
- 2) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university.
- 3) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods-Secondary Level at an accredited college or university.
- 4) 150 hours of Application of Teaching Methods that include preparation and organization of subject matter to be presented on a unit by unit basis and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.
- 5) 50 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the Illinois Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 and this Part.
- 6) 260 hours of Student Teaching under the on-site supervision of a qualified teacher who is the holder of a current teacher's license issued by the Division. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- b) A student may practice student teaching only after completing 20 hours of Educational Psychology and 20 hours of Teaching Methods as specified in subsections (a)(2) and (a)(3).
- c) The approved program for a 500-hour Teacher Training Course shall be based on 2 years of practical experience as a hair braider and shall consist of the teacher training curriculum outlined in subsection (a) with the exception of the 100 hours of post-graduate training.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1545 Final Examination

- a) A hair braiding school shall require each candidate for graduation to pass a final examination that shall test the student's theoretical and practical knowledge of the curriculum studied.
- b) The practical examination shall test the candidate's skills in the following areas:
 - 1) Client Preparation, Analysis and Consultation
 - 2) Single Braids With and Without Extensions
 - 3) Cornrows With and Without Extensions
 - 4) Double Strand Twisting
 - 5) Knots
 - 6) Locking
 - 7) Weaving and Styling
 - 8) Safety and Sanitation Procedures
- c) The examination shall be administered by the uniform application of standard performance criteria established by the school for each skill area. The standard

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

performance criteria for each skill area shall be delineated in the examination records as specified in subsection (g).

- d) A passing score of 75 or greater shall be required on both the theoretical and practical portions of the final examination.
- e) The school shall allow each candidate for graduation at least 3 attempts to pass the final examination.
- f) The Division may monitor the administration of the final examination:
 - 1) As a result of a complaint received;
 - 2) For random sampling; and/or
 - 3) To collect data.
- g) The school shall maintain records of the final examination for a period of no less than 5 years in the manner prescribed in Section 1175.1525(b). These records shall include:
 - 1) A copy of the final examination administered; and
 - 2) Each student's examination grades.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1550 Change of Ownership

- a) When the ownership of a licensed hair braiding school changes, the new owner shall, within 5 working days from the date the title to the school is transferred, file with the Division an affidavit stating that the sale is contingent on a license being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a hair braiding school license is issued to the new owner. The new owner shall file an application with the Division, on forms supplied by the Division, with the following information and documentation:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Name, address and telephone number of the person, corporation or other entity that owns the school;
- 2) If the school is owned by a legal entity other than an individual, the name, address and telephone number of the chief executive officer of the corporation or other legal entity that owns the school;
- 3) Name, address and telephone number of the school;
- 4) Name, address and telephone number of the chief managing employee;
- 5) If the school is owned by a legal entity formed in Illinois (domestic), a copy of the required business filing with the Illinois Secretary of State;
- 6) If the school is owned by a legal entity formed outside of Illinois (foreign), a copy of the required filing from that jurisdiction and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 7) If the school is owned by a partnership, a copy of the signed and dated partnership agreement including the name of the partnership and the name, address and telephone number of each partner;
- 8) If the school name is different from the owner's full legal name, a certificate from the Illinois Secretary of State showing authorization to transact business under an assumed name or certificate from the county clerk's office where the assumed name is filed;
- 9) A Commitment Statement from each officer of the corporation, each manager or member of the limited liability company or each member of the partnership;
- 10) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 11) A detailed floor plan consistent with the requirements of Section 1175.1510. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;
 - 12) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the school site;
 - 13) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
 - 14) A statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;
 - 15) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
 - 16) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
 - 17) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525;
 - 18) A copy of the final examination to be used by the school, which shall be consistent with the requirements of Section 1175.1545;
 - 19) A sample of the school seal to be used by the school;
 - 20) A photograph of the school sign to be used by the school; and
 - 21) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. Approval shall be granted if all the requirements of this Subpart O have been met.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- c) Hair braiding schools shall only offer instruction in hair braiding and hair braiding teacher education.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1555 Change of Location

- a) When the location of a licensed hair braiding school changes, the school owner shall, at least 30 days prior to the change in school site, submit to the Division the following:
- 1) Written notice to the Division that the licensed hair braiding school is changing location;
 - 2) A signed and completed school application;
 - 3) A detailed floor plan of the new school site consistent with the requirements of Section 1175.1510. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the new site;
 - 4) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the school site;
 - 5) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school; and
 - 6) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location nor may the school in any way solicit student enrollment at the new location until the owners have received notice of approval from the Division. Approval will be granted if all of the requirements of this Subpart O have been met.
- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) The temporary site must be inspected prior to its use and must possess light and ventilation and tables and chairs for the number of students in a classroom, and must be clean.
- 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1560 Change of Name

- a) When the name of a licensed hair braiding school changes, the school owner shall, at least 30 days prior to the change in school name, submit to the Division the following:
 - 1) Written notice to the Division that the licensed hair braiding school name is changing. Notice shall include the owner's name, school license number, previous name of school, address of school, new name of school and effective date of change;
 - 2) If the school name is different from the owner's full legal name, a certificate from the Illinois Secretary of State showing authorization to transact business under an assumed name or certificate from the county clerk's office where the assumed name is filed; and
 - 3) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received and processed, the Division shall issue a new certificate. All identifying signs and materials must conform to the new school name.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1565 Expansion

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- a) Written notice shall be given to the Division 30 days prior to any expansion of a licensed hair braiding school.
- b) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:
 - 1) A statement from the school owner outlining the purpose of the expansion;
 - 2) A detailed floor plan of the school site consistent with the requirements of Section 1175.1510. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the existing school site and expansion;
 - 3) A listing of any additional teachers who will be added to the teaching staff as a result of the expansion; and
 - 4) The required inspection fee set forth in Section 1175.100.
- c) Off-Site Locations
 - 1) An off-site classroom location is defined as a separate classroom that is located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.
 - 2) When the expansion will result in an off-site classroom location, a completed school application shall be submitted along with:
 - A) A statement from the school owner outlining the purpose of the off-site classroom location;
 - B) A detailed floor plan of the off-site classroom location;
 - C) A copy of a lease showing at least a 1 year commitment to the use of the off-site classroom location or certification of ownership of the off-site classroom location;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- D) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as an off-site classroom location;
 - E) A listing of any additional teachers who will be added to the teaching staff as a result of the expansion; and
 - F) The required fee set forth in Section 1175.100.
- d) Upon receipt of the items listed in subsections (b) and (c), the Division shall inspect the expansion site to determine compliance with this Part. The expansion site shall not be used until the inspection has occurred and the owner has received notice of approval from the Division. Approval will be granted if all of the requirements of this Subpart O have been met.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

Section 1175.1570 Discontinuance of Program

- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1175.1575 Withdrawal of Approval

The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a of licensed hair braiding school when the quality of the program has been affected by any of the following:

- a) Gross or repeated violations of any provisions of the Act or this Part;
- b) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
- c) Failure to meet the criteria for school approval specified in this Part;
- d) Failure to administer the final examination specified in this Part;
- e) Failure to maintain final examination grades for each student and a master **copy** of the examination administered by the school, as specified in this Part;
- f) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.1515;
- g) Failure to provide transcripts to students;
- h) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining monies by providing fraudulent or untruthful information; and
- i) Any other violations of the Act or this Part.

(Source: Added at 35 Ill. Reg. 14983, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Real Estate Timeshare Act of 1999
- 2) Code Citation: 68 Ill. Adm. Code 1451
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1451.10	Amendment
1451.20	Amendment
1451.30	Amendment
1451.40	Amendment
1451.50	Amendment
1451.57	New Section
1451.58	New Section
1451.60	Amendment
1451.70	Amendment
1451.80	Amendment
1451.90	Amendment
1451.95	Amendment
1451.96	New Section
1451.97	New Section
1451.100	Amendment
1451.200	Amendment
1451.210	Amendment
1451.300	Amendment
- 4) Statutory Authority: Implementing and authorized by the Real Estate Time Share Act [765 ILCS 101]
- 5) Effective Date of Rulemaking: September 9, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 6716; April 22, 2011

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between proposal and final version:

In Section 1451.40(b)(1), at the end of the subsection, "Real Estate Timeshare" and "of 1999" were stricken.

In Section 1451.40 (b)(3), on the second line following "Department", ", from the acceptable assurance," was added. Also, on the third line following "judgment", ", or portion of the judgment," was added. On the last line, "from the acceptable assurance" was stricken.

In Section 1451.60(a), on the first line, a comma following "company" and delete "and an internal exchange program" was deleted. On the second line, a comma was added following "Act".

In Section 1451.60(b), on the third line, "on" was deleted following "Department". On the last line, "August 1 and no later than August 31" was added and "during the month of August" was added.

In Section 1451.80(c), on the last line following "change", "pursuant to Section 1451.100" was added.

In Section 1451.90(b)(2), on the second line, "to OBRE" was stricken and "the Department" was added.

In Section 1451.90(d), on the sixth line, "Real Estate Timeshare" and "of 1999" were stricken. On the seventh line, following "receipt" "that is" was added.

In Section 1451.100, on the second line, "Real Estate Timeshare" and strike "of 1999" were stricken.

In Section 1451.300, on the third line, "on or after August 1, but by no later than August 30" was added and ""during the month of August" was added.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments will implement various provisions of Public Act 96-738. The major statutory change creates Section 10-45 (Managing entity lien), Section 10-50 (Non-judicial foreclosure against timeshare estates), and Section 10-55 (Foreclosure of lien or security on a timeshare use), all of which were requested by the industry. In addition to the statutory changes we will implement with these amendments, obsolete language will be removed, and technical and non-substantive changes will be made, including updating the entire Part to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
~~VIII: OFFICE OF BANKS AND REAL ESTATE~~

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1451

REAL ESTATE TIMESHARE ACT OF 1999

SUBPART A: ADDITIONAL DEFINITIONS

Section
1451.10 Definitions

SUBPART B: ADDITIONAL REGISTRATION INFORMATION

Section
1451.20 Comprehensive Registration
1451.30 Abbreviated Registration
1451.40 Alternative Registration
1451.50 Resale Agent ~~Duties~~Registration
1451.57 Listing Agreements
1451.58 Resale Agent Maintenance of Records
1451.60 Exchange Company Registration
1451.70 Preliminary Permit
1451.80 Multi-Site Timeshare Plan Disclosure Requirements
1451.90 Public Offering Statement
1451.95 Fees

SUBPART C: ADDITIONAL INFORMATION TO BE SUBMITTED
TO THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
~~OFFICE OF BANKS AND REAL ESTATE~~

Section
1451.96 Renewal of Registration for Developer, Managing Entity, Acquisition Agent and Sales Agent
1451.97 Renewal of Registration for Exchange Company
1451.100 Amendment of Registration

SUBPART D: ADVERTISING AND PROMOTIONAL MATERIALS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section

- 1451.200 Submission of Advertising and Promotional Materials
1451.210 Guidelines for Advertising and Promotional Materials
1451.220 Exempt Communications
1451.230 National Publication or Electronic Media

SUBPART E: ADMINISTRATION AND TRANSITION INFORMATION

Section

- 1451.300 ~~Registrations Under Previous Act;~~ Extension; Expiration

AUTHORITY: Implementing and authorized by the Real Estate Time Share Act [765 ILCS 101].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 850, effective January 1, 2000, for a maximum of 150 days; emergency expired May 29, 2000; adopted at 24 Ill. Reg. 8842, effective June 13, 2000; amended at 35 Ill. Reg. 15044, effective September 9, 2011.

SUBPART A: ADDITIONAL DEFINITIONS

Section 1451.10 Definitions

Unless otherwise defined or clarified in this Part, definitions set forth in the Act also apply for purposes of this Part.

"Act" shall mean the Real Estate Timeshare Act of 1999 [765 ILCS 101].

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

~~"OBRE" shall mean the Office of Banks and Real Estate.~~

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

SUBPART B: ADDITIONAL REGISTRATION INFORMATION

Section 1451.20 Comprehensive Registration

A comprehensive registration as set forth in Section 5-15(d) of the Act shall include but not be limited to:

- a) certificate of authority to transact business in Illinois, if applicable;
- b) certified financial statements;
- c) consent to service of process;
- d) consent to examine and audit special accounts;
- e) a completed timeshare plan application/~~questionnaire~~, including the following exhibits:
 - 1) general location map;
 - 2) scaled, drafted plot map;
 - 3) floor plans for each type of unit;
 - 4) copy of plat or survey of record;
 - 5) evidence of title;
 - 6) legal description of property;
 - 7) encumbrances;
 - 8) covenants;
 - 9) certificate of occupancy, if available;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 10) certification of promised improvements;
- 11) public offering statement;
- 12) contract and conveyance documents;
- 13) exchange company documents; and
- f) the required filing fee.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.30 Abbreviated Registration

An abbreviated registration as set forth in Section 5-15(e) of the Act shall include but not be limited to:

- a) certificate of authority to transact business in Illinois, if applicable;
- b) consent to service of process;
- c) consent to examine and audit special accounts;
- d) a completed timeshare plan application/~~questionnaire~~;
- e) a certificate of registration or other evidence of registration from any jurisdiction in which the timeshare plan is approved or accepted and is in good standing with that jurisdiction;
- f) copies of any disclosure documents required to be given to purchasers or required to be filed with the jurisdiction in which the timeshare plan is approved; and
- g) the required filing fee.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.40 Alternative Registration

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- a) An alternative registration as set forth in Section 5-15(g) shall include but not be limited to:
- 1) certificate of authority to transact business in Illinois, if applicable;
 - 2) consent to service of process;
 - 3) consent to examine and audit special accounts;
 - 4) a completed timeshare plan application/~~questionnaire~~;
 - 5) copies of any disclosure documents required to be given to purchasers or required to be filed with the jurisdiction in which the timeshare plan is approved;
 - 6) an acceptable assurance in the amount of \$1,000,000, which may include an irrevocable letter of credit drawn on a federal or state chartered financial institution, or such other financial assurance acceptable to the DepartmentOBRE; and
 - 7) the required filing fee.
- b) Claims by any Illinois purchaser pursuant to Section 5-15(g) of the Act shall be subject to the following procedures:
- 1) the Illinois purchaser must first obtain a final judgment in any court of competent jurisdiction against the developer or his or her agents or employees, on the grounds of conduct as determined by the DepartmentOBRE, that constitutes a violation of the ~~Real Estate Timeshare Act of 1999~~ or this Part;
 - 2) the Illinois purchaser must submit an affidavit to the DepartmentOBRE along with a copy of the final judgment stating that the developer has failed to satisfy the judgment within 180 days after all appeals have been exhausted; and
 - 3) upon receipt by the DepartmentOBRE of the information required by 68 Ill. Adm. Code 1451.40(b)(1) and (2), the Department, from the acceptable assurance, 1450.20(b), OBRE shall cause satisfaction of the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

judgment, or portion of the judgment, that~~which~~ constitutes actual monetary loss to the Illinois purchaser ~~from the acceptable assurance.~~

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.50 Resale Agent DutiesRegistration

Any person or entity that functions~~registers~~ as a resale agent as defined in Section 1-15 of pursuant to the Act must comply with Section 5-40 of the Act and shall ~~be required to~~ provide information to the Department upon request. The information,~~which~~ may include, but not be limited to, a certification of licensure by the proper licensing authority of the jurisdiction in which the timeshare interest is located, if the resale agent is required to maintain a license in that jurisdiction; a copy of the listing agreement; a copy of the escrow disbursement form; and the Illinois license number of the real estate broker.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.57 Listing Agreements

All listing agreements between a resale agent and the owner of a timeshare interest shall comply with the requirements of Section 5-40(a) of the Act and the Real Estate License Act of 2000 [225 ILCS 454] and 68 Ill. Adm. Code 1450.195.

(Source: Added at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.58 Resale Agent Maintenance of Records

A resale agent shall maintain records for at least five years after each transaction involving the resale of a timeshare interest, including all listing agreements, copies of disbursement authorizations in accordance with Section 5-40(c) of the Act, transfer agreements and resale purchase agreements.

(Source: Added at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.60 Exchange Company Registration

- a) Any exchange company, as set forth in Section 5-30 of the Act, ~~must register~~ required to register with the Department at least 20 calendar days prior to offering an exchange program to purchasers in this State. An applicant~~OBRE~~ may satisfy

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

the registration and disclosure requirements by filing an application form approved by the Department, a disclosure-a-registration submittal filed with another state, so long as the disclosure-registration submittal substantially complies with the requirements set forth in Section 5-30 of the Act, including the filing fee required by Section 1451.95 of this Part. The Department shall issue a list of deficiencies to the applicant within 60 calendar days after receipt.~~specified in the Real Estate Timeshare Act of 1999.~~

- b) An exchange company or program shall file with the Department an annual report that includes the audited statistics for the preceding calendar year as outlined in Section 5-30(b)(17) of the Act. This report must be filed with the Department during the month of August.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.70 Preliminary Permit

~~AOBRE may issue a~~ preliminary permit, as set forth in Section 5-15(f) of the Act, shall include but is not limited to:-

- a) certificate of authority to transact business in Illinois, if applicable;
- b) consent to service of process;
- c) consent to examine and audit special accounts;
- d) a completed timeshare plan application;
- e) contract and conveyance document;
- f) public offering statement; and
- g) the required filing fee.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.80 Multi-Site Timeshare Plan Disclosure Requirements

- a) If the timeshare plan is a multi-site plan, the developer shall provide additional

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

information to the Department~~OBRE~~, including, but not limited to:

- 1) whether the purchaser of such multi-site plan will receive a specific timeshare interest; or
 - 2) whether the purchaser of such multi-site plan will receive a non-specific timeshare interest.
- b) A developer of a multi-site timeshare plan with one or more component sites ~~which are~~ made available through a reservation system shall make the following true and correct disclosures to the Department~~OBRE~~, upon initial registration, and to the purchaser of a timeshare interest:
- 1) name and address of each component site;
 - 2) number of accommodations and use periods expressed in periods of seven-day use availability and available for use by purchasers;
 - 3) each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether the accommodation contains a full kitchen;
 - 4) a description of facilities available for use by the purchaser at each component site;
 - 5) a description of the reservation system and the rules and regulations governing reservations;
 - 6) a summary of restrictions, if any, to be imposed on a purchaser concerning the use of each component site; and
 - 7) a description of any priority reservation rights at any component site that may affect the purchaser's odds of obtaining a reservation at that component site.
- c) ~~A~~Additionally, a developer of a multi-site timeshare plan ~~offering~~with a non-specific interest, pursuant to subsection (a)(2), shall disclose the following information to the Department~~OBRE~~ upon initial registration and shall provide any change in information to the Department within 30 days ~~after the change~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

pursuant to Section 1451.100~~OBRE annually at the renewal:~~

- 1) certification that a one-to-one purchaser-to- accommodation ratio, pursuant to Section 1-30 of the Act, is maintained;
- 2) the location of all accommodations;
- 3) the number of timeshare intervals available at each location or component site;
- 4) the number of purchasers eligible to use the accommodations of a timeshare plan; and
- 5) a statement of evidence of title for each component site for which a non-specific timeshare interest is being offered in Illinois has been filed with the Department~~OBRE~~ together with a brief description for each component site of:
 - A) the type of interest for each accommodation (fee simple, leasehold, in trust);
 - B) the duration of thesueh interest (perpetual, number of years); and
 - C) any liens, defects, or encumbrances on or affecting the title to the timeshare interest.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.90 Public Offering Statement

- a) Each public offering statement shall:
 - 1) contain the information required by Section 5-25 of the Act;
 - 2) be provided in writing or electronic means to the Department~~OBRE~~ and purchasers; and
 - 3) provide for a document certifying receipt of the public offering statement by the purchaser.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- b) The public offering statement shall be submitted to the Department~~OBRE~~ in the English language and any reference in an approval letter of the Department~~OBRE~~ to the documents comprising the public offering statement shall be to those~~such~~ documents in the English language.
- 1) A developer may use non-English versions of the documents if:
- A1) any such document is an accurate translation of the English version that has been approved by the Department~~OBRE~~; and
- B2) the developer has identified each translated document in a completed, executed statement using the form prescribed by the Department~~OBRE~~.
- 2) Upon request by the Department~~OBRE~~, a developer shall promptly deliver to the Department~~OBRE~~ a copy of any translated document that has been or is being used in an offering.
- c) Approval by the Department~~OBRE~~ of a public offering statement shall not be promoted to the public as an endorsement by the Department~~OBRE~~ of the developer or the timeshare plan or be used to induce the purchase of an interest in a timeshare plan.
- d) In the case of a timeshare plan with accommodations located outside the State of Illinois, the Department~~OBRE~~ may accept the public offering statement or similar disclosure document utilized in any other state in which the timeshare plan is registered; provided, however, that the~~such~~ public offering statement or disclosure document contains information substantially equivalent to or greater than the information required by the Real Estate Timeshare Act of 1999 and is accompanied by an acknowledgement of receipt that is approved by the Department.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.95 Fees

- a) Initial Application~~Registration~~ Fees

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Timeshare Plans~~Developer Registration Fee~~:
 - Single-Site Timeshare Plan \$1,500
 - Multi-Site Timeshare Plan that offers~~includes~~ a Specific Timeshare Interest
 - ~~Each~~For each component site offered in Illinois \$1,500
 - ~~Each~~For each component site not offered in Illinois (maximum \$1,500)..... \$50
 - Multi-Site Timeshare Plan that includes a Non-Specific Timeshare Interest \$3,000
 - ~~Each~~For each component site included in the Multi-Site Timeshare Plan (maximum \$15,000)..... \$500
 - Preliminary Permit..... \$500
- 2) Acquisition Agent ~~Registration Fee~~ (one time initial registration per developer~~entity~~) \$500
- 3) Sales Agent ~~Registration Fee~~ (one time initial registration per developer~~entity~~) \$500
- 4) Managing Entity Registration Fee (one time initial registration per entity)..... \$500
- 5) Exchange Company ~~Registration Fee~~..... \$250
- 6) Resale Agent Registration Fee \$500

b) Annual~~Registration~~ Renewal Fees

- 1) Timeshare Plans~~Developer Registration Fee~~:
 - Single-Site Timeshare Plan \$1,000
 - Multi-Site Timeshare Plan that offers~~includes~~ a Specific Timeshare Interest
 - ~~Each~~For each component site offered in Illinois \$1,000
 - ~~Each~~For each component site not offered in Illinois (maximum \$1,000)..... \$25
 - Multi-Site Timeshare Plan that offers~~includes~~ a Non-Specific Timeshare Interest..... \$2,000

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

	– Each For each component site included in the Multi-Site Timeshare Plan (maximum \$10,000).....	\$250
2)	Acquisition Agent Registration Fee (one time initial registration per developer entity).....	\$100
3)	Sales Agent Registration Fee (one time initial registration per developer entity).....	\$100
4)	Managing Entity Registration Fee (one time initial registration per developer entity).....	\$100
5)	Exchange Company Registration Fee	\$100
6)	Late Renewal Resale Agent Registration Fee	\$50 250
c)	Amendment Fees	
1)	<u>Timeshare Plans:</u>	
	Single-Site Timeshare Plan:	
	– Add Adding accommodations or units	\$1,000
2)	Multi-Site Timeshare Plan that offers includes a Specific Timeshare Interest:	
	– Add Adding units to a component site to be offered in Illinois ..	\$1,000
	– Add Adding a new component site to be offered in Illinois.....	\$1,000
	– Add Adding a new component site not offered in Illinois (maximum \$1,500).....	\$50
3)	Multi-Site Timeshare Plan that includes a Non-Specific Timeshare Interest:	
	– Add Adding units to a component site	\$1,000
	– Add Adding a new component site.....	\$1,000
2)	<u>Exchange Company</u>	<u>\$250</u>
34)	All other amendments to an existing registration.....	\$250
d)	<u>Roster of Registrants</u>	<u>\$10</u>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

SUBPART C: ADDITIONAL INFORMATION TO BE SUBMITTED TO
THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION OFFICE OF
BANKS AND REAL ESTATE

Section 1451.96 Renewal of Registration for Developer, Managing Entity, Acquisition
Agent and Sales Agent

- a) A renewal of registration for a developer, managing entity, acquisition agent or sales agent, as set forth in Section 5-60(c) of the Act, shall include:
- 1) Name, address of principal office, telephone number and FEIN or Social Security Number (with indication whether any information is new since last renewal).
 - 2) Illinois registration number.
 - 3) Name, address and telephone number of responsible person to whom correspondence should be directed.
 - 4) For developers only, the most recent audited financial statement of the developer, or its parent if the developer's audit is not performed separately, prior to the date of the renewal application and certified by the chief financial officer of the developer.
 - 5) For developers that filed an abbreviated registration, indicate the state in which the developer's timeshare plan is registered and provide:
 - A) A certificate of registration in good standing of the timeshare plan, or other evidence of a current registration for the timeshare plan, from that jurisdiction;
 - B) A certificate of authority to transact business in Illinois for that registered developer, if applicable; and
 - C) The required renewal fee.
- b) A late fee of \$50 will be assessed for renewals received after the due date.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.97 Renewal of Registration for Exchange Company

- a) A renewal of registration for an exchange company, as set forth in Section 5-60(c) of the Act shall include:
- 1) The information required by Section 5-30(b)(1) through (16) of the Act.
 - 2) The audit required by Section 5-30(b)(17) of the Act for the immediately preceding calendar year.
 - 3) The required renewal fee.
- b) A late fee of \$50 will be assessed for renewals received after the due date.

(Source: Added at 35 Ill. Reg. 15044, effective September 9, 2011)

Section 1451.100 Amendment of Registration

The developer shall amend or supplement its registration to report any material change in the information required by the ~~Real Estate Timeshare Act of 1999~~. ~~The Such~~ amendment or supplementation shall be made within ~~30~~²⁰ days after the occurrence of the material change. "Material change" means any change ~~thatwhich~~ alters the meaning or effect of an instrument or information, or any change ~~thatwhich~~ affects the rights or liabilities of any timeshare owner or any potential timeshare purchaser. The amendment shall be on a form approved by the Department and shall include an amendment fee as set forth in Section 1451.95(c).

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

SUBPART D: ADVERTISING AND PROMOTIONAL MATERIALS

Section 1451.200 Submission of Advertising and Promotional Materials

The Department~~OBRE~~ may request advertising and promotional materials at any time.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1451.210 Guidelines for Advertising and Promotional Materials

Any advertising ~~materials~~material relating to a timeshare plan, including prizes, discounted vacations~~prize~~ and gift promotional offers, must be in full compliance with Section 10-25 of the Act and the guidelines set forth in this Section.

- a) A seller or other person using an advertisement or promotion in connection with the offering of a timeshare plan shall clearly disclose:
 - 1) that any person whose name or address is obtained during the promotion may be solicited to purchase a timeshare interest and attendance at a sales presentation may be required;
 - 2) the name of each seller or other person trying to sell a timeshare interest through the promotion and the name of each person paying for the promotion;
 - 3) the complete rules of the promotion;
 - 4) the method of awarding prizes, gifts, discounted vacations or other benefits under the promotion; a complete and fully detailed description, including approximate retail value of all prizes, gifts, discounted vacations or benefits under the promotion; any required deposits or additional fees; the quantity, if limited, of each prize, gift or benefit that will be awarded or conferred; and the date by which each prize, gift or benefit will be awarded or conferred;
 - 5) that the purpose of the promotion is to sell timeshare interests, which shall appear in bold face or other conspicuous type, and may be satisfied by each piece of advertising or promotional piece shall contain the following disclosure statement in bold face, 10 point type: "THIS ADVERTISING MATERIAL IS BEING USED FOR THE PURPOSE OF SOLICITING THE SALE OF TIMESHARE INTERESTS" or substantially similar language and format acceptable to the Department~~OBRE~~.
- b) A seller or other person using an advertisement or promotion in connection with the offering of a timeshare plan shall provide the disclosures required by subsection (a) in writing or electronically to a prospective purchaser at least once before the earlier of:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) A reasonable period before the scheduled sales presentation to ensure that the prospective purchaser receives the disclosures before leaving to attend the sales presentation; or
 - 2) The payment of any nonrefundable monies by the prospective purchaser in regard to the advertisement or promotion.
- c) A seller or other person operating an exhibit booth, kiosk, or any other type of stand-alone display in Illinois must prominently disclose on the signage, in at least 2" typed letters, the name of the seller and/or person paying for the promotion.
- de) If a seller or other person represents that a prize, gift, or benefit will be awarded in connection with a promotion, the prize, gift or benefit must be awarded or conferred in a manner represented, and on or before the date ~~represented~~presented.
- ed) A seller or other person using an advertisement or promotion in connection with the offering of a timeshare plan shall not:
- 1) misrepresent a fact material to a purchaser's decision to purchase a timeshare interest;
 - 2) predict specific or immediate increases in the value of a timeshare interest unless the increases are bonafide pending price increases by the seller;
 - 3) materially misrepresent the qualities or characteristics of a timeshare property or the amenities available to a purchaser;
 - 4) misrepresent the length of time that accommodations or amenities will be available to the purchaser of a specific or non-specific timeshare interest; or
 - 5) knowingly misrepresent the conditions under which a purchaser of a specific or non-specific timeshare interest may exchange the right of his or her occupancy for the right to occupy an accommodation in another location.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: ADMINISTRATION AND TRANSITION INFORMATION

Section 1451.300 ~~Registrations Under Previous Act;~~ Extension; Expiration

- a) ~~Pursuant to Section 25-5 of the Act, all registrations in effect under the Illinois Real Estate Time Share Act [765 ILCS 100, repealed] shall remain in full force and effect after January 1, 2000.~~
- b) ~~All registrations in effect pursuant to subsection (a) above, which would have expired on December 31, 1999, shall be extended to April 1, 2000 under the Act, except for exchange company registrations. Exchange company registrations shall be extended to July 1, 2000.~~

e) All registrations under the Act and this ~~Part~~Section shall expire annually on April 1, except for exchange company registrations. Exchange company registrations shall expire annually on August 1 and the audit, required by Section 5-30(b)(17) of the Act, shall be reported during the month of August~~July 1~~.

(Source: Amended at 35 Ill. Reg. 15044, effective September 9, 2011)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pyrotechnic Distributor and Operator Licensing Rules
- 2) Code Citation: 41 Ill. Adm. Code 230
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
230.140	Amendment
230.150	Amendment
230.230	Amendment
- 4) Statutory Authority: Implementing and authorized by the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227]
- 5) Effective Date of Adopted Amendments: September 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any matter incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Amendments published in the Illinois Register: 34 Ill. Reg. 13612; September 24, 2010
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Changes made between the proposed and adopted versions:

In subsection 230.230(a)(1), at the end of that paragraph, strike "or".

In subsection 230.230(a)(2), delete ", the Pyrotechnic Use Act".

Add a new subsection 230.230(a)(4) that says: "Participated in an unsafe or illegal act or acts pertaining to pyrotechnics in such a manner that the licensee's continued operations constitute a danger to the public.".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this part? No
- 15) Summary and purpose of amendments: To add a reinstatement fee as required by statute and to clarify that the license of a pyrotechnic distributor or operator who participates in an unsafe or illegal act or acts pertaining to pyrotechnics whereby the licensee's continued operations constitute a danger to the public can have its license suspended in such circumstances.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Misty Matykiewicz
Director of Fire Prevention Division
OSFM
1035 Stevenson Drive
Springfield, IL 62703

Tel: 217-558-0639
Fax: 217-558-4992

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION

CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 230

PYROTECHNIC DISTRIBUTOR AND OPERATOR LICENSING RULES

Section	
230.10	Scope
230.20	Definitions
230.25	Incorporated and Referenced Materials
230.30	General Requirements for Pyrotechnic Displays
230.40	Compliance Standards
230.50	Qualifications for Distributor License
230.55	Qualifications for Production Company License
230.60	Qualifications for Limited Distributor License
230.65	Qualifications for Production Company Lead Operator Licensing Approval
230.70	Qualifications for Outdoor Professional License
230.80	Qualifications for Proximate Audience License
230.90	Qualifications for Flame Effect License
230.100	Application for License
230.105	Applications Received Between June 16 and July 5
230.110	Proximate Audience and Flame Effect Licensing Review Committee
230.120	Written Examination for Proximate Audience License and/or Flame Effect License
230.130	Use of Assistants
230.140	License Renewal
230.150	Fees
230.160	Possession of License
230.170	Notification to OSFM
230.180	Replacement and Duplicate License
230.190	Report of Theft or Loss of Fireworks
230.200	Reporting of Professional, Proximate Audience and Flame Effect Displays
230.210	Report of Injury or Property Damage
230.220	Inspections
230.230	Immediate Suspension
230.240	Administrative Actions
230.250	Appeal of an Administrative Action
230.260	Modifications to NFPA 1126
230.270	Modifications to NFPA 160

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 230.280 Criminal History Investigation
230.290 Music Entertainment Pyrotechnics Task Force
230.APPENDIX A Propane Flow Diagram: Standard with No Accumulator
230.APPENDIX B Propane Flow Diagram: Standard with Accumulator

AUTHORITY: Implementing and authorized by Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30] and Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4.1].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 1485, effective January 23, 2006; emergency expired June 21, 2006; adopted at 31 Ill. Reg. 8757, effective June 5, 2007; amended at 34 Ill. Reg. 16524, effective October 6, 2010; amended at 35 Ill. Reg. 15064, effective September 1, 2011.

Section 230.140 License Renewal

- a) A license issued pursuant to this Part for distributors and their respective lead pyrotechnic operators is valid for 3 years from the date of issuance.
- b) An approval for a lead pyrotechnic operator for a production company is valid for a period of 3 years from the date of issuance.
- c) A license issued to a production company and its lead pyrotechnic operator is valid for the term of the production company's insurance policy or for the time specified by the production company, if shorter than the term of the insurance, and shall in no event exceed one year from the date of issuance. The license must be returned to OSFM upon expiration. If the license is not returned within 15 days after expiration, the production company or lead pyrotechnic operator shall not be issued a new license until the previous license is returned.
- d) Outdoor professional, proximate audience and flame effect licensees, and holders of production company lead operator approvals may renew their license during the 60-day period preceding and 60-day period following the expiration date by submitting a renewal application on forms provided by OSFM, together with the required fee. Renewal applications shall be submitted by the distributor by whom the licensee is employed.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- e) Any license that is not renewed within 60 days following its expiration will be cancelled. Except as set forth in subsection ([ig](#)), any requests after that date to renew or restore will be treated as a new application.
- f) The extended renewal periods under subsections ([db](#)) and ([ig](#)) do not allow a licensee to engage in any conduct or activities for which a license is required during the 60-day period after the license's expiration date.
- g) In addition, a licensee seeking to renew his/her outdoor professional, proximate audience or flame effect license or production company lead pyrotechnic operator licensing approval must include with the renewal application evidence that the licensee participated in at least:
 - 1) 2 pyrotechnic displays as a lead operator for an outdoor professional display license;
 - 2) 6 proximate audience displays for a proximate audience license; or
 - 3) 6 flame effect displays for a flame effect license.
- h) Licensees or production company lead pyrotechnic operator licensing approvals must provide evidence of satisfactory completion of at least 6 hours of continuing education in their respective area of licensure to ensure continued qualification of the licensee. Continuing education may be conducted by a federal or state agency, by an independent organization that has experience in the subject matter, or by the distributor.
- i) *Renewal and reinstatement fees shall be waived for persons who did not renew while on active duty in the military and who file for renewal or restoration within one year after discharge from the service. [225 ILCS 227/50(b)]* These licensees must satisfy all other requirements of this Section in order to renew a license. Proof of service discharge date will be required to receive a waiver of fees.
- j) [In addition to meeting all the requirements of this Section, a licensee failing to renew with 60 days after the end of the license period shall be assessed a reinstatement fee of \\$100, in addition to the renewal fees.](#)

(Source: Amended at 35 Ill. Reg. 15064, effective September 1, 2011)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

Section 230.150 Fees

The following license fees will be invoiced to the applicant upon review and approval of the application, shall be paid to OSFM for administration of the Act and are non-refundable:

Production Company License	\$200
Production Company Lead Pyrotechnic Operator License	\$100
Pyrotechnic Distributor License and each renewal	\$500
Limited Pyrotechnic Distributor License and each renewal (only available for political subdivisions of the State)	\$50
Production Company Lead Operator Approval	\$0
Outdoor Professional License and each renewal	\$100
Proximate Audience License, Limited Proximate Audience License and each renewal	\$300
Flame Effect License, Limited Flame Effect License and each renewal	\$300
Replacement license (lost, stolen, or destroyed) or duplicate license (worn, damaged, or address change)	\$25
<u>License Reinstatement Fee</u>	<u>\$100</u>

(Source: Amended at 35 Ill. Reg. 15064, effective September 1, 2011)

Section 230.230 Immediate Suspension

- a) OSFM shall issue an order immediately suspending the license whenever OSFM finds, based upon reasonable belief from on-site observation, record inspection by OSFM personnel, information received from law enforcement personnel or information received from the public, that a licensee:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 1) Permitted a person to act as an assistant who did not meet the requirements of Section 230.130; ~~or~~
 - 2) Permitted a lead operator to work for a production company under a license previously issued to a separate production company; ~~or~~
 - 3) Violated the Act, this Part or compliance standard that may cause death or serious injury; ~~or~~
 - 4) Participated in an unsafe or illegal act or acts pertaining to pyrotechnics in such a manner that the licensee's continued operations constitute a danger to the public.
- b) OSFM shall serve its order of immediate suspension of a license under this Section by personal service. The order shall also be sent by certified mail to the licensee's last known address.
- c) OSFM shall serve with the order of immediate suspension a notice containing the information set forth in subsection (a).

(Source: Amended at 35 Ill. Reg. 15064, effective September 1, 2011)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Introduction
- 2) Code Citation: 35 Ill. Adm. Code 301
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
301.247	New
301.282	New
301.307	New
301.323	New
301.324	New
- 4) Statutory Authority: Authorized by Sections 13, 27, and 28 of the Environmental Protection Act [415 ILCS 5/13, 27, and 28]
- 5) Effective Date of Amendments: August 23, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 2010; 35 Ill. Reg. 12521
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
 1. In the Table of Contents at 301.323, replaced "Non-Contact Recreation" with "Primary Contact Recreation"; and at 301.324, inserted "Non-contact Recreation and" before "non-Recreational".
 2. Changed Section 301.323 to:

Section 301.323 Primary Contact Recreation

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Primary Contact Recreation" means any recreational activity in which human contact consists of full body contact with the waters, such as swimming, diving or jumping, and includes all Incidental Contact Recreation.

3. Changed Section 301.324 to:

Section 301.324 Non-contact Recreation and Non-recreational

- a) "Non-contact Recreation" means any recreational or other water use in which human contact with the water is unlikely, such as pass through commercial or recreational navigation, and where physical conditions or hydrologic modifications make direct human contact unlikely or dangerous.
- b) "Non-recreational" means a water body where the physical conditions or hydrologic modifications preclude primary contact, incidental contact and non-contact recreation.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking establishes the recreational use designations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River (LDPR). The Board is adopting four categories of recreational use designation for the Chicago Area Waterway System (CAWS) and Lower Des Plaines River (LDPR): Primary Contact Recreation, Incidental Contact Recreation, Non-contact Recreation, and Non-recreational. At second notice, the Board responded to comments from participants by adding rules defining the recreational use designation, "Primary Contact Recreation", to identify segments of the CAWS where full body contact recreation is attainable in the foreseeable future. Primary Contact Recreation is intended to meet the CWA recreational use goal of recreating on and in the water (swimmable). The Board adopted this use based on comments received during the first notice period that drew the Board's attention to evidence in the record demonstrating that the CWA recreational use goal was attainable in specific segments.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R08-09(A) in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 301
INTRODUCTION

Section	
301.101	Authority
301.102	Policy
301.103	Repeals
301.104	Analytical Testing
301.105	References to Other Sections
301.106	Incorporations by Reference
301.107	Severability
301.108	Adjusted Standards
301.200	Definitions
301.205	Act
301.210	Administrator
301.215	Agency
301.220	Aquatic Life
301.221	Area of Concern
301.225	Artificial Cooling Lake
301.230	Basin
301.231	Bioaccumulative Chemicals of Concern
301.235	Board
301.240	CWA
301.245	Calumet River System
301.247	Chicago Area Waterway System
301.250	Chicago River System
301.255	Combined Sewer
301.260	Combined Sewer Service Area
301.265	Construction
301.267	Conversion Factor
301.270	Dilution Ratio
301.275	Effluent
301.280	Hearing Board
301.282	Incidental Contact Recreation
301.285	Industrial Wastes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

301.290	Institute
301.295	Interstate Waters
301.300	Intrastate Waters
301.301	Lake Michigan Lakewide Management Plan
301.305	Land Runoff
301.307	Lower Des Plaines River
301.310	Marine Toilet
301.311	Method Detection Level
301.312	Minimum Level
301.313	Metals Translator
301.315	Modification
301.320	New Source
301.323	Primary Contact Recreation
301.324	Non-contact Recreation and Non-recreational
301.325	NPDES
301.330	Other Wastes
301.331	Outlier
301.335	Person
301.340	Pollutant
301.341	Pollutant Minimization Program
301.345	Population Equivalent
301.346	Preliminary Effluent Limitation
301.350	Pretreatment Works
301.355	Primary Contact
301.356	Projected Effluent Quality
301.360	Public and Food Processing Water Supply
301.365	Publicly Owned Treatment Works
301.370	Publicly Regulated Treatment Works
301.371	Quantification Level
301.372	Reasonable Potential Analysis
301.373	Same Body of Water
301.375	Sanitary Sewer
301.380	Secondary Contact
301.385	Sewage
301.390	Sewer
301.395	Sludge
301.400	Standard of Performance
301.405	STORET
301.410	Storm Sewer

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

301.411	Total Maximum Daily Load
301.413	Total Metal
301.415	Treatment Works
301.420	Underground Waters
301.421	Wasteload Allocation
301.425	Wastewater
301.430	Wastewater Source
301.435	Watercraft
301.440	Waters
301.441	Water Quality Based Effluent Limitation
301.442	Wet Weather Point Source
301.443	Whole Effluent Toxicity
301.APPENDIX A	References to Previous Rules

AUTHORITY: Implementing Section 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13 and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; amended at 5 Ill. Reg. 6384, effective May 28, 1981; codified at 6 Ill. Reg. 7818; amended in R88-1 at 13 Ill. Reg. 5984, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2879, effective February 13, 1990; amended in R99-8 at 23 Ill. Reg. 11277, effective August 26, 1999; amended in R02-11 at 27 Ill. Reg. 158, effective December 20, 2002; amended in R08-9(A) at 35 Ill. Reg. 15071, effective August 23, 2011.

Section 301.247 Chicago Area Waterway System

"Chicago Area Waterway System" means Calumet River, Grand Calumet River, Little Calumet River downstream from the confluence of Calumet River and Grand Calumet River, Calumet-Sag Channel, Lake Calumet, Chicago River and its branches downstream from their confluence with North Shore Channel, North Shore Channel and Chicago Sanitary and Ship Canal.

(Source: Added at 35 Ill. Reg. 15071, effective August 23, 2011)

Section 301.282 Incidental Contact Recreation

"Incidental Contact Recreation" means any recreational activity in which human contact with the water is incidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing; commercial boating; small craft recreational boating; and any limited contact associated with shoreline activity such as wading.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 35 Ill. Reg. 15071, effective August 23, 2011)

Section 301.307 Lower Des Plaines River

"Lower Des Plaines River" means Des Plaines River from the confluence with Chicago Sanitary and Ship Canal to the Interstate 55 Bridge.

(Source: Added at 35 Ill. Reg. 15071, effective August 23, 2011)

Section 301.323 Primary Contact Recreation

"Primary Contact Recreation" means any recreational activity in which human contact consists of full body contact with the waters, such as swimming, diving or jumping, and includes all Incidental Contact Recreation.

(Source: Added at 35 Ill. Reg. 15071, effective August 23, 2011)

Section 301.324 Non-contact Recreation and Non-recreational

- a) "Non-contact Recreation" means any recreational or other water use in which human contact with the water is unlikely, such as pass through commercial or recreational navigation, and where physical conditions or hydrologic modifications make direct human contact unlikely or dangerous.
- b) "Non-recreational" means a water body where the physical conditions or hydrologic modifications preclude primary contact, incidental contact and non-contact recreation.

(Source: Added at 35 Ill. Reg. 15071, effective August 23, 2011)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Water Use Designations and Site-Specific Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 303
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
303.102	Repeal
303.204	Amend
303.220	New
303.225	New
303.227	New
303.441	Repeal
- 4) Statutory Authority: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27]
- 5) Effective Date of Amendments: August 23, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 2010; 35 Ill. Reg. 12533
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
 1. In the Table of Contents:
 - In Section 303.204, struck "Waters".
 - In Section 303.220, changed "Incidental" to "Primary".
 - In Section 303.225, changed "Non-Contact" to "Incidental Contact".

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Changed Section 303.227 to "Non-Contact Recreation Waters and Non-Recreational Waters".

2. Changed Section 303.220 to:

Section 303.220 Primary Contact Recreation Waters

The following waters are designated as Primary Contact Recreation Waters and must be protected for Primary Contact Recreation uses as defined in 35 Ill. Adm. Code 301.323.

- a) Lower North Shore Channel from North Side Water Reclamation Plant to confluence with North Branch of the Chicago River;
- b) North Branch of the Chicago River from its confluence with North Shore Channel to its confluence with South Branch of the Chicago River and Chicago River;
- c) Chicago River;
- d) South Branch of the Chicago River;
- e) Little Calumet River from its confluence with Calumet River and Grand Calumet River to its confluence with Calumet-Sag Channel; and
- f) Calumet-Sag Channel.

3. Changed Section 303.225 to:

Section 303.225 Incidental Contact Recreation Waters

The following waters are designated as Incidental Contact Recreation waters and must protect for incidental contact recreational uses as defined in 35 Ill. Adm. Code 301.282.

- a) Upper North Shore Channel from Wilmette Pumping Station to North Side Water Reclamation Plant;
- b) South Fork of the South Branch of the Chicago River (Bubbly Creek);

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- c) Chicago Sanitary and Ship Canal from its confluence with South Branch of the Chicago River to its confluence with Calumet-Sag Channel;
- d) Calumet River from Torrence Avenue to its confluence with Grand Calumet River and Little Calumet River;
- e) Lake Calumet;
- f) Lake Calumet Connecting Channel;
- g) Grand Calumet River;
- h) Lower Des Plaines River from the Brandon Road Lock and Dam to the Interstate 55 bridge.

4. Changed Section 303.227 by adding a new subsection (a):

- a) Non-Contact Recreation. Calumet River from Lake Michigan to Torrence Avenue is designated as a Non-Contact Recreation water and must protect for non-contact recreational uses as defined in 35 Ill. Adm. Code 301.324.

and relabeling the succeeding text.

5. Made non-substantive and grammatical changes suggested by JCAR

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking establishes the recreational use designations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River (LDPR). The Board is adopting four categories of recreational use designation for the Chicago Area Waterway System (CAWS) and Lower Des Plaines River (LDPR): Primary Contact Recreation, Incidental Contact Recreation, Non-contact Recreation, and Non Recreation. At second notice, the Board responded to comments from participants

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

by adding rules defining the recreational use designation, "Primary Contact Recreation", to identify segments of the CAWS where full body contact recreation is attainable in the foreseeable future. Primary Contact Recreation is intended to meet the CWA recreational use goal of recreating on and in the water (swimmable). The Board adopted this use based on comments received during the first notice period that drew the Board's attention to evidence in the record demonstrating that the CWA recreational use goal was attainable in specific segments.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R08-09(A) in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 303
WATER USE DESIGNATIONS AND SITE-SPECIFIC
WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

- Section
- 303.100 Scope and Applicability
- 303.101 Multiple Designations
- 303.102 Rulemaking Required ([Repealed](#))

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

- Section
- 303.200 Scope and Applicability
- 303.201 General Use Waters
- 303.202 Public and Food Processing Water Supplies
- 303.203 Underground Waters
- 303.204 [Chicago Area Waterway System and Lower Des Plaines River](#)~~Secondary Contact and Indigenous Aquatic Life Waters~~
- 303.205 Outstanding Resource Waters
- 303.206 List of Outstanding Resource Waters
- [303.220 Primary Contact Recreation Waters](#)
- [303.225 Incidental Contact Recreation Waters](#)
- [303.227 Non-Contact Recreation Waters and Non-Recreational Waters](#)

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS

- Section
- 303.300 Scope and Applicability
- 303.301 Organization
- 303.311 Ohio River Temperature
- 303.312 Waters Receiving Fluorspar Mine Drainage
- 303.321 Wabash River Temperature

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

303.322	Unnamed Tributary of the Vermilion River
303.323	Sugar Creek and Its Unnamed Tributary
303.326	Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River
303.331	Mississippi River North Temperature
303.341	Mississippi River North Central Temperature
303.351	Mississippi River South Central Temperature
303.352	Unnamed Tributary of Wood River Creek
303.353	Schoenberger Creek; Unnamed Tributary of Cahokia Canal
303.361	Mississippi River South Temperature
303.400	Bankline Disposal Along the Illinois Waterway/River
303.430	Unnamed Tributary to Dutch Creek
303.431	Long Point Slough and Its Unnamed Tributary
303.441	Secondary Contact Waters (Repealed)
303.442	Waters Not Designated for Public Water Supply
303.443	Lake Michigan Basin
303.444	Salt Creek, Higgins Creek, West Branch of the DuPage River, Des Plaines River
303.445	Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River
303.446	Boron Water Quality Standard for Segments of the Sangamon River and the Illinois River
303.447	Unnamed Tributary of the South Branch Edwards River and South Branch Edwards River
303.448	Mud Run Creek

SUBPART D: THERMAL DISCHARGES

Section	
303.500	Scope and Applicability
303.502	Lake Sangchris Thermal Discharges
303.APPENDIX A	References to Previous Rules
303.APPENDIX B	Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill. Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg. 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February 22, 2002; amended in R03-11 at 28 Ill. Reg. 3071, effective February 4, 2004; amended in R06-24 at 31 Ill. Reg. 4440, effective February 27, 2007; amended in R09-8 at 33 Ill. Reg. 7903, effective May 29, 2009; amended in R09-11 at 33 Ill. Reg. 12258, effective August 11, 2009; amended in R08-9(A) at 35 Ill. Reg. 15078, effective August 23, 2011.

SUBPART A: GENERAL PROVISIONS

Section 303.102 Rulemaking Required (Repealed)

~~Designation of waters to meet secondary contact and indigenous aquatic life standards is governed by Part 102 of Subtitle A.~~

~~(Note: Prior to codification, Part II of Chapter I: Procedural Rules.)~~

(Source: Repealed at 35 Ill. Reg. 15078, effective August 23, 2011)

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section 303.204 Chicago Area Waterway System and Lower Des Plaines River ~~Secondary Contact and Indigenous Aquatic Life Waters~~

~~The Chicago Area Waterway System and Lower Des Plaines River Waters which are designated to protect for incidental contact or non-contact recreational uses (except where designated as non-recreational waters) and commercial activity (including navigation and industrial water supply uses) limited only by the physical condition of these waters and hydrologic modifications to these waters. These waters are required to meet the secondary contact and indigenous aquatic life standards contained in 35 Ill. Adm. Code 302, Subpart D of Subpart D, Part 302, but are not required to meet the general use standards or the public and food processing water supply standards of 35 Ill. Adm. Code 302, Subpart B and C Subparts B and C, Part 302. Designated recreational uses for each segment of the Chicago Area Waterway System and Lower Des Plaines River are identified in this Subpart.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 15078, effective August 23, 2011)

Section 303.220 Primary Contact Recreation Waters

The following waters are designated as Primary Contact Recreation Waters and must be protected for Primary Contact Recreation uses as defined in 35 Ill. Adm. Code 301.323.

- a) Lower North Shore Channel from North Side Water Reclamation Plant to confluence with North Branch of the Chicago River;
- b) North Branch of the Chicago River from its confluence with North Shore Channel to its confluence with South Branch of the Chicago River and Chicago River;
- c) Chicago River;
- d) South Branch of the Chicago River;
- e) Little Calumet River from its confluence with Calumet River and Grand Calumet River to its confluence with Calumet-Sag Channel; and
- f) Calumet-Sag Channel.

(Source: Added at 35 Ill. Reg. 15078, effective August 23, 2011)

Section 303.225 Incidental Contact Recreation Waters

The following waters are designated as Incidental Contact Recreation Waters and must protect for incidental contact recreational uses as defined in 35 Ill. Adm. Code 301.282.

- a) Upper North Shore Channel from Wilmette Pumping Station to North Side Water Reclamation Plant;
- b) South Fork of the South Branch of the Chicago River (Bubbly Creek);
- c) Chicago Sanitary and Ship Canal from its confluence with South Branch of the Chicago River to its confluence with Calumet-Sag Channel;
- d) Calumet River from Torrence Avenue to its confluence with Grand Calumet River and Little Calumet River;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- e) [Lake Calumet;](#)
- f) [Lake Calumet Connecting Channel;](#)
- g) [Grand Calumet River;](#)
- h) [Lower Des Plaines River from the Brandon Road Lock and Dam to the Interstate 55 bridge.](#)

(Source: Added at 35 Ill. Reg. 15078, effective August 23, 2011)

Section 303.227 Non-Contact Recreation Waters and Non-Recreational Waters

- a) [Non-Contact Recreation. Calumet River from Lake Michigan to Torrence Avenue is designated as a Non-Contact Recreation Water and must protect for non-contact recreational uses as defined in 35 Ill. Adm. Code 301.324.](#)
- b) [The following waters are designated as Non-Recreational waters as defined in 35 Ill. Adm. Code 301.324.](#)
 - 1) [Chicago Sanitary and Ship Canal from its confluence with the Calumet-Sag Channel to its confluence with Des Plaines River; and](#)
 - 2) [Lower Des Plaines River from its confluence with Chicago Sanitary and Ship Canal to the Brandon Road Lock and Dam.](#)

(Source: Added at 35 Ill. Reg. 15078, effective August 23, 2011)

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS**Section 303.441 Secondary Contact Waters (Repealed)**

~~The following are designated as secondary contact and indigenous aquatic life waters and must meet the water quality standards of 35 Ill. Adm. Code 302.Subpart D:~~

- a) ~~The Chicago Sanitary and Ship Canal;~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) ~~The Calumet Sag Channel;~~
- e) ~~The Little Calumet River from its junction with the Grand Calumet River to the Calumet Sag Channel;~~
- d) ~~The Grand Calumet River;~~
- e) ~~The Calumet River, except the 6.8 mile segment extending from the O'Brien Locks and Dam to Lake Michigan;~~
- f) ~~Lake Calumet;~~
- g) ~~The South Branch of the Chicago River;~~
- h) ~~The North Branch of the Chicago River from its confluence with the North Shore Channel to its confluence with the South Branch;~~
- i) ~~The Des Plaines River from its confluence with the Chicago Sanitary and Ship Canal to the Interstate 55 bridge; and~~
- j) ~~The North Shore Channel, excluding the segment extending from the North Side Sewage Treatment Works to Lake Michigan. The dissolved oxygen in said Channel shall be not less than 5 mg/l during 16 hours of any 24 hour period, nor less than 4 mg/l at any time.~~

(Source: Repealed at 35 Ill. Reg. 15078, effective August 23, 2011)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Ownership, Partnership, and Stable Name
- 2) Code Citation: 11 Ill. Adm. Code 1409
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1409.5	Amend
1409.10	Repeal
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: September 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 8378; June 3, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking adopts the Association of Racing Commissioners International model rule pertaining to racing colors.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Mickey Ezzo
Illinois Racing Board

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

100 West Randolph, Suite 7-701
Chicago, Illinois 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, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1409

OWNERSHIP, PARTNERSHIP, AND STABLE NAME

Section

1409.5	Racing Colors Registration of Colors
1409.10	Application for Colors (Repealed)
1409.20	Deviations
1409.30	Register Name of Real Owner and Lessee
1409.40	Owner-Trainer Registrations
1409.50	Change in Ownership
1409.60	False Registration
1409.70	List of Changes
1409.80	Stable Names
1409.90	Registration of Stable Names
1409.100	Trainers' Use of Stable Names
1409.110	Affidavit of Ownership
1409.120	Partnerships
1409.130	Corporations
1409.132	Number of Stockholders (Repealed)
1409.135	File Reports With Board
1409.138	Board May Waive Requirements
1409.140	Change in Officers
1409.150	Entries, Declarations and Winnings
1409.160	Signature by Racing Secretary
1409.170	Consent of Partners
1409.180	Name All Owners
1409.185	Corporation With Stable Name

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

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); codified at 5 Ill. Reg. 10973; amended at 13 Ill. Reg. 1841, effective January 27,

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1989; amended at 17 Ill. Reg. 12429, effective July 16, 1993; amended at 35 Ill. Reg. 15088, effective September 1, 2011.

Section 1409.5 Racing Colors~~Registration of Colors~~

Owners or trainers shall provide racing colors, which may be subject to the approval of the Board, except at racetracks where colors are furnished by the organization licensee. Racing colors shall be registered with the Racing Secretary. The Stewards may authorize a temporary substitution of racing colors when necessary. The racing colors to be worn by each jockey in a race shall be described in the program, and any change shall be announced to the public prior to the commencement of the race.~~Racing colors must be registered, and authority for their use sanctioned. Such registration shall be made annually, upon issuance of an owner's license.~~

(Source: Amended at 35 Ill. Reg. 15088, effective September 1, 2011)

Section 1409.10 Application for Colors (Repealed)

~~No owner or lessee shall file an application for colors which are already being used by another owner or lessee or so registered in any state or jurisdiction, except that partners may have the same colors.~~

(Source: Repealed at 35 Ill. Reg. 15088, effective September 1, 2011)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
100.2101	Amendment
100.2193	New Section
100.2435	New Section
100.2510	New Section
100.7325	Amendment
- 4) Statutory Authority: 35 ILCS 5/201(e); 35 ILCS 203, 218; 35 ILCS 704A
- 5) Effective Date of Amendments: August 24, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.
- 9) Notice of Proposals Published in Illinois Register: 35 Ill. Reg. 8098, May 27, 2011; 35 Ill. Reg. 8382, June 03, 2011; 35 Ill. Reg. 8777, June 10, 2011
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with JCAR.

This is a consolidated rulemaking with 2 Sections being amended and 3 Sections being added. See #9 above for a list of rulemakings combined and adopted as one rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: 100.2101 – The rulemaking consists of amendments to Regulations Section 100.2101 relating to the replacement tax investment credit. The purpose of the rulemaking is to update the regulation to reflect (i) the changes to the definition of "retailing" and "tangible personal property" under Public Act. 96-115, and (ii) the extension of the credit through 2013 under Public Act. 96-116. The rulemaking also makes technical clarifications.

New Section 100.2510 proposes rules regarding the subtraction modification for contributions to an Illinois qualified tuition plan (Illinois 529 Plan). New Section 100.2193 proposes rules regarding the income tax credit for employers who make contributions to an employee's Illinois 529 plan. Finally, new Section 100.2435 proposes rules for the addition modification for employers who claim the income tax credit under new Section 100.2193.

100.7325 - The purpose of the amendment is to update the regulation to incorporate the mandatory electronic payment rule under P.A. 96-1027.

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

Paul Caselton
Deputy General Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
| [100.2193](#) [Student-Assistance Contributions Credit \(IITA 218\)](#)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))

100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)

100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies

[100.2435 Addition Modification for Student-Assistance Contribution Credit \(IITA Sections 203\(a\)\(2\)\(D-23\), \(b\)\(2\)\(E-16\), \(c\)\(2\)\(G-15\), \(d\)\(2\)\(D-10\)\)](#)

100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))

100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))

100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

[100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs \(Section 529 Plans\) \(IITA Section 203\(a\)\(2\)\(Y\)\)](#)

100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3371 Sales Factor for Telecommunications Services
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions
- 100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART P: COMBINED RETURNS

Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7035	Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section	
100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section	
100.7200	Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section	
100.7300	Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310	Returns Filed and Payments Made on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330	Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350	Domestic Service Employment (IITA Sections 704 and 704A)
100.7360	Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370	Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

SUBPART U: ESTIMATED TAX PAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART V: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART W: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART X: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART Y: DEFICIENCIES AND OVERPAYMENTS

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Z: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART AA: INVESTIGATIONS AND HEARINGS

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

SUBPART BB: JUDICIAL REVIEW

Section	
100.9600	Administrative Review Law (IITA Section 1201)

SUBPART CC: DEFINITIONS

Section	
100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART DD: LETTER RULING PROCEDURES

Section	
100.9800	Letter Ruling Procedures

SUBPART EE: MISCELLANEOUS

Section	
100.9900	Tax Shelter Voluntary Compliance Program
100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011.

SUBPART B: CREDITS

Section 100.2101 Replacement Tax Investment Credit (IITA 201(e))

- a) A taxpayer shall be allowed a credit against the Personal Property Replacement Income Tax for investment in qualified property ("the investment credit"). The qualified property must be used in Illinois by a taxpayer who is primarily engaged

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

in manufacturing, retailing, coal mining or fluorite mining.

- b) *A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984 ~~and before January 1, 2004~~ (IITA Section 201(e)(1)). However, the basis of qualified property shall not include costs incurred after December 31, 2013, except for costs incurred pursuant to a binding contract entered into on or before December 31, 2013 (IITA Section 201(e)(8)).*
- c) *There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment in Illinois has increased by at least 1% over the preceding year. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and denominator of which is 1%, but shall not exceed .5% (IITA Section 201(e)(1)).*
- 1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 or Form UI-3/40M and divide this total by the number of months in the taxable year.
 - 2) Example of the Additional Investment Credit Computation. During the calendar year 1994, Corporation A reported 500 employees each month on Line 1 of Form UC-3/40. Therefore, Corporation A's base employment in Illinois for 1994 was 500 ((500 x 12) divided by 12 = 500). In 1995, Corporation A reported 500 employees for each of the first six months, and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1995 was 502.5 ((500 x 6) + (505 x 6) divided by 12 = 502.5). Corporation A's percentage of increase in 1995 base employment over 1994 base employment is .5%. This figure is computed by subtracting the 1994 base employment from the 1995 base employment and dividing the remainder by the 1994 base

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

employment $((502.5 - 500) \text{ divided by } 500 = .005 \text{ or } .5\%)$. Corporation A will be allowed an additional investment credit for 1995 of .25% (one-half of the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 1, 1986.

- d) The investment credit is not allowed to the extent it would decrease the taxpayer's replacement tax liability for the taxable year to less than zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. No carryback or carryforward of unused credit is allowed for tax years ending prior to December 31, 1985. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.
- e) Qualified property. In order to qualify for the investment credit, property must be tangible; depreciable pursuant to Internal Revenue Code Section 167, except that "3-year property" as defined in IRC ~~section~~Section 168(c)(2)(A) is not eligible; and acquired by purchase as defined in Internal Revenue Code ~~section~~Section 179(d). IRC ~~section~~Section 168(c)(2)(A), as in effect at the time the credit was enacted, defined "3-year property" to mean "section 1245 property: with a present class life of 4 years or less; or used in connection with research and experimentation". In addition to the above requirements, property must be used in Illinois by the taxpayer who is engaged primarily in manufacturing, retailing, coal mining or fluorite mining, in order to qualify for the IITA Section 201(e) credit against the replacement tax. Qualified property can be new or used, but cannot have been previously used in Illinois, in such a manner and by such a person as would qualify for the investment credit, or for the Section 201(f) Enterprise Zone Investment Credit, and includes buildings and structural components of buildingsthereof.
- 1) Tangible property, whether new or used, can consist of personalty or realty and includes, but is not limited to, buildings and structural components of buildings, signs that are real property, machinery,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

equipment, and vehicles. Certain property, though tangible in nature, does not qualify as investment credit property because it is not depreciable.

- 2) Depreciable. In order to qualify for the investment credit, property must also be depreciable pursuant to IRC ~~section~~Section 167. IRC ~~section~~Section 167 provides that depreciable property is property used in the taxpayer's trade or business or held for the production of income which is subject to wear and tear, exhaustion, or obsolescence.
 - A) Property ~~that~~which is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by IRC ~~section~~Section 168, is considered depreciable pursuant to IRC ~~section~~Section 167 for purposes of the investment credit. Property assigned to a MACRS class of less than 4 years does not qualify for the investment credit.
 - B) Examples of tangible property ~~that~~which is not depreciable are land, inventories or stock in trade, natural resources, and coin or currency.
 - C) The provisions of Treasury Reg. ~~section~~Section 1.167(a)-4 shall govern in determining whether leasehold improvements are depreciable.
 - D) IRC ~~section~~Section 179 allows taxpayers, under certain circumstances, to expense up to ~~\$25,000~~~~10,000~~ of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was ~~\$25,000~~~~10,000~~ or less, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under ~~section~~Section 179 would qualify for the credit based on the cost of the depreciable property reduced by the ~~section~~Section 179 deduction.
- 3) Placed in service. For purposes of the Illinois investment credit, "placed

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

in service" has the same meaning as under IRC ~~section~~[Section](#) 46. Property will be considered to have been placed in service in the same taxable year in which it is taken into account in determining the federal investment tax credit. See Treasury Reg. ~~section~~[Section](#) 1.46-3(d).

- A) Even though property is placed in service in the same taxable year in which it is taken into account in determining the Federal investment tax credit, only property placed in service in Illinois after June 30, 1984 and before January 1, 1997 can qualify for consideration in determining the credit against the replacement tax. Qualifying property shall be considered placed in service in Illinois on the date on which the property is placed in a condition or state of readiness and available for a specifically assigned function. See Treasury Reg. ~~section~~[Section](#) 1.46-3(d)(2).
 - B) Property ~~that~~[which](#) is disposed of, moved out of Illinois or which ceases to qualify for any other reason during the same taxable year it was placed in service in Illinois will not be considered in computing the investment credit for the taxable year.
- 4) Adjusted basis. The basis of qualified property for purposes of the investment credit is the property's basis used to compute the depreciation deduction for federal income tax purposes. [Accordingly, the basis for the credit is determined without regard to any bonus depreciation under IRC section 168\(k\), but after taking into account any amount treated as an expense not chargeable to capital under IRC section 179.](#)
- A) In computing the amount of investment credit available for a taxable year, the proper investment credit rate will be applied to the total basis of all qualified property placed in service in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.
 - B) If the basis of property placed in service during a taxable year is increased or decreased during the same taxable year, the increased or decreased basis will be used to compute the investment credit for the taxable year.
- 5) Acquired by purchase. In order to qualify for the investment credit, the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

property must have been acquired by purchase as defined in IRC ~~section~~Section 179(d). For purposes of determining whether property is acquired by purchase as defined by IRC ~~section~~Section 179(d), the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in IRC ~~section~~Section 1563(a), except stock ownership of only 50% or more is required. See Treasury Reg. ~~section~~Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase. IRC ~~section~~Section 179 defines purchase as any acquisition of property except:

- A) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC ~~section~~Sections 267 or 707(b);
 - B) an acquisition by one component member of a controlled group from another component member of the group; an acquisition of property, if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
 - C) an acquisition of property, the basis of which is determined under IRC ~~section~~Section 1014(a). IRC ~~section~~Section 1014(a) covers property acquired from a decedent. Property acquired by bequest or demise is not acquired by purchase.
- 6) Used in Illinois. Mobile property such as vehicles must be used predominantly in Illinois. Removal of such property from Illinois for a temporary and transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Illinois operation of the taxpayer. For purposes of this Section, mobile property is considered to be predominantly used in Illinois if usage in Illinois exceeds usage outside of Illinois. Example: A retailer sometimes uses its trucks based in Illinois to deliver goods both in Illinois and to out-of-State buyers. ~~Such temporary~~ Temporary absence of its trucks from Illinois does not disqualify them.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 7) A lessor of otherwise qualifying property ~~that, which property~~ is used by the lessee in manufacturing, retailing, or coal or fluorite mining operations, would not qualify for the credit because the property is not used "by the taxpayer".
- 8) "Manufacturing" is defined in IITA Section 201(e)(3) as *the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations*. It is not necessary that ~~thesesuch~~ procedures result in a finished consumer product. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public. If a taxpayer primarily engages in the following operations, the taxpayer will not qualify for the investment credit on the basis of engaging primarily in manufacturing. The activities described are generally not considered manufacturing operations:
- A) Agricultural activities such as cultivating the soil,[;] raising or harvesting crops,[;] the production of seed or seedlings,[;] and the development of hybrid seeds, plants,[;] or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping, is not manufacturing.
 - B) Manufacturing operations do not include mining,[;] quarrying,[;] logging,[;] drilling for oil, gas or water,[;] or any other operations ~~thatwhich~~ result in the extraction or procurement of a natural resource. However, the refining or processing of ~~such~~ natural resources into a product of a different form or a product ~~thatwhich~~ has different qualities is manufacturing.
 - C) Persons engaged in the construction, reconstruction, alteration, remodeling,[;] or improvement of real estate are not considered engaged in manufacturing operations.
 - D) Manufacturing operations do not include research and development of new products or production techniques.
 - E) Manufacturing operations do not include the use of machinery or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

equipment in managerial or other non-production, non-operational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, or personnel recruitment, selection or training.

- 9) Retailing. Retailing is defined as *the sale of tangible personal property for use or consumption and not for resale, or services rendered in conjunction with the sale of tangible personal property for use or consumption and not for resale. For purposes of this Section, the term "tangible personal property" has the same meaning as when used in the Retailers' Occupation Tax Act, and does not include the generation, transmission, or distribution of electricity consumer goods or commodities* (IITA Section ~~201203~~(e)(3)). It is required that ~~thesuch~~ tangible personal property be finished consumer goods, and the property be sold to its ultimate consumer. For example, sales of tangible personal property for resale are not included in the definition of retailing. The following activities are not considered retailing operations:
- A) The construction, reconstruction, alteration, remodeling, or improvement of real estate;
 - B) The operation of a hotel or motel or other institution providing only lodging facilities;
 - C) Other service professions ~~that~~~~which~~ do not involve the transfer of tangible personal property other than as an incident to the service performed. For guidance in distinguishing service professions from retailing professions, the Department will rely on rules promulgated under the Service Occupation Tax Act at 86 Ill. Adm. Code 140;
 - D) Farming operations related to crop and livestock production do not constitute retailing. However, the marketing of ~~thesesuch~~ products would constitute a retailing operation.
- 10) Mining of coal or fluorite. *Mining has the same meaning as in ~~section~~Section 613(c) of the Internal Revenue Code, but shall be limited to*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

the mining of coal and fluorite (IITA Section ~~201203~~(e)(3)). Mining as defined in IRC Section 613(c) includes not only extraction, but also treatment processes such as cleaning, breaking, sorting, sizing, dust allaying, and loading for shipment.

- 11) New or used. Qualifying property can be new or used; however, used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for the Illinois investment credit.
- A) Example: Corporation A purchases a used pick-up truck, for use in its manufacturing business in Illinois, from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all the other requirements for the investment credit, it will not be disqualified merely because it was previously used in Illinois for a purpose ~~thatwhich~~ did not qualify for the credit. However, had Corporation A purchased the used truck from an Illinois taxpayer in whose hands the truck qualified for the investment credit, the truck would not be qualified property to Corporation A, even though the party from whom the truck was acquired had never received an investment credit for it.
- B) Property ~~thatwhich~~ would otherwise qualify for the credit will not be disqualified because it was previously used in such a manner and by such a person as would have qualified for the investment credit before the ~~time such~~ credit came into effect. Example: In August of 1983, Corporation A purchased a drill press for use in its manufacturing operation in an Illinois Enterprise Zone from Corporation B. Corporation B originally placed the drill press into service in its Illinois manufacturing operation in January of 1980, before IITA Section 201(e) came into effect. Even though Corporation B would have qualified for the Illinois investment credit had there been a credit in 1980, this will not disqualify Corporation A from claiming a credit for this property, provided the property is otherwise qualified. However, should Corporation A sell the property to Corporation C for use in its Illinois manufacturing operation, the property would not qualify for the credit, even though it would otherwise qualify, because the property was used in such a manner and by such a person as would

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

have qualified for the investment credit under Section 201(e) or 201(f) at a time when at least one of the credits was in effect. The fact that the Section 201(e) credit was not yet effective when Corporation A placed the property in service will not cause the property to qualify for the Section 201(e) credit in the hands of Corporation C because IITA Section 201(e) specifically provides that the property is disqualified if it previously qualified under either IITA Section 201(e) or 201(f).

- f) To qualify for the credit, property must be used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing. It is not required that the property be used exclusively in manufacturing, mining of coal or fluorite or in retailing. So long as the taxpayer is primarily, more than 50%, engaged in one of these operations, all qualified property is eligible for the credit, even if the property is not actually used in an exempt manufacturing, coal or fluorite mining or retailing process. The taxpayer must engage primarily in one or more of the operations. In other words, a taxpayer that is engaged 30% of the time in retailing and 40% of the time in manufacturing will qualify for the credit, because the taxpayer is engaged primarily in one or more of the operations. In determining whether a taxpayer is primarily engaged in an activity the Department will look to the gross receipts of the taxpayer received in the ordinary course of business by that taxpayer. For example, if more than 50% of the taxpayer's gross receipts are from manufacturing, the taxpayer is primarily engaged in manufacturing, or if more than 50% of the gross receipts are from retailing, the taxpayer is primarily engaged in retailing. The taxpayer (and the Department) will look to the gross receipts received by the taxpayer in the ordinary course of business. Therefore, if, for example, the taxpayer suffers a casualty loss and that is compensated for by an insurance payment, the amount of money so received will not be deemed gross receipts received in the ordinary course of business, and disqualify the taxpayer from eligibility and perhaps result in the recapture of credits granted in prior years.

EXAMPLE 1: Corporation A manufactures CD ROM Units for personal computers, which are sold to others for resale. Corporation A also engages in the retail sale of canned computer software. Finally, Corporation A develops and sells custom computer software to various clients. Corporation A receives 20% of its gross receipts from the manufacturing of CD ROM Units, 40% of its gross receipts from retail sales of canned software, and 40% of its gross receipts from its custom computer software development and sales operations. Corporation A is

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

eligible for the credit. Corporation A is engaged primarily in manufacturing and retailing, because the total of its manufacturing and retailing operations is 80% of its gross receipts. Therefore, the Corporation is eligible for the credit.

EXAMPLE 2: Corporation B operates a hotel. 80% of the gross receipts of Corporation B are from the renting of rooms, 5% of the gross receipts are from the operation of a gift shop in the hotel and the remaining 15% of the gross receipts are from the operation of a restaurant and lounge in the hotel. The renting of rooms is not retailing. Therefore, Corporation B is ineligible for the credit because it is not engaged primarily in retailing, even though it does, through the operation of the gift shop, restaurant and lounge, engage in some retailing activities.

- g) *Recapture. If, within 48 months after being placed in service, any property ceases to be qualified property in the hands of the taxpayer or the situs of any qualified property is moved outside of Illinois, or outside of the enterprise zone, for other than a temporary or transitory purpose, then the personal property tax replacement income for the taxable year in which such event occurred will be increased (IITA Section 201(e)(7)). If, during the 48 month period, the taxpayer ceased to be primarily engaged in retailing, manufacturing, coal or fluorite mining, the property ceases to be qualified property. Therefore, previously granted credits must be recaptured.*
- 1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.
 - 2) A taxpayer disposes of property when he sells the property, exchanges or trades in worn-out property for new property, abandons the property or retires it from use. Property destroyed by casualty, stolen, or transferred as a gift is treated as having been disposed of. Property which is mortgaged or used as security for a loan does not cease to qualify provided the taxpayer continues to use the property within Illinois. Property transferred to a trustee in bankruptcy is considered disposed of in the year the property is transferred to the trustee. A transfer of property by foreclosure is treated as a disposition.
 - 3) The reduction of the basis of qualified property resulting from the redetermination of the purchase price is a disposition of qualified property to the extent of such reduction in the taxable year the reduction takes

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

place. This occurs, for example, when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of part of the original purchase price. See [26 CFR Regulation 1.47-2\(c\) \(2010\)](#) under the Internal Revenue Code.

- 4) In order to determine the amount by which the personal property tax replacement income tax must be increased in the taxable year in which the property ceased to qualify or was moved outside of Illinois or the enterprise zone, the taxpayer must recompute the investment credit for the taxable year in which the property was placed in service by eliminating from his calculations any such property. This recomputed investment credit is subtracted from the amount of credit actually used in the year in which the disqualified property was placed in service. The difference between the recomputed credit and the credit actually used is added to the personal property tax replacement income tax or the income tax for the year in which the property ceased to qualify or was moved outside of Illinois. If the recomputed credit is greater than the credit actually used in the year the property was placed in service, no addition to the current taxable year's personal property tax replacement income tax or income tax is required.

EXAMPLE: In 1985, Corporation A places qualifying property with a basis of \$55,000 into service in an enterprise zone located in Illinois and computes a Section 201(e) investment credit for the year of \$275 ($\$55,000 \times .5\%$) and a Section 201(h) investment credit of \$275 ($\$55,000 \times .5\%$). Corporation A's 1985 personal property tax replacement income tax is \$260 and its income tax liability for the year is \$420. After application of the credit, Corporation A has no remaining replacement tax liability and its remaining income tax liability is \$145. In the following year Corporation A moved a qualifying asset having a basis in 1985 of \$5,000 from Illinois and is therefore required to recapture a portion of the investment credit applied against its replacement tax. In order to determine its additional income tax for 1986, Corporation A must recompute its 1985 investment credit by eliminating the disqualified property ($\$55,000 - \$5,000 \times .5\% = \$250$). This recomputed credit is subtracted from the investment credit actually used in 1985 against the income tax ($\$260 - \$250 = \$10$) and the difference is added to Corporation A's 1986 income tax after application of the 1986 investment credit.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- h) Partnerships and Subchapter S Corporations.
- 1) *For each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under IITA Section 201(e) for the taxable year. The election to pass through the credits shall be irrevocable. [IITA Section 201(e)(9)]*
- A) This subsection (h)(1) applies only to partnerships. Subchapter S corporations may not pass credits through to their stockholders under this provision.
- B) Subject to the statute of limitations, the election under this subsection (h)(1) may be made retroactively. See *Borden Chemicals and Plastics, L.P. v. Zehnder*, 312 IllApp3d 35 (1st Dist. 2000). A retroactive election shall be made by filing an amended return by the partnership making the election for the tax year of the election and for any subsequent year affected by the election, and including a schedule of the credits to be passed through. An example of a subsequent year affected by an election would be a year in which a credit carried forward from a year prior to the election was used by the partnership or was passed through to the partners by an election for that subsequent year.
- C) All credits to which the partnership is entitled under IITA Section 201(e) in the year an election is made are passed through to the partners, including credits passed through to the partnership from another partnership, credits carried forward from prior years and the share attributable to partners who are not subject to Personal Property Tax Replacement Income Tax and exempt organizations not subject to tax under IITA Section 205(a).
- D) Any credit passed through to a partner must be used within the 5-year carryforward period allowed to the partnership. Thus, a credit earned by a partnership in the year the election is made may be used by the partner to whom it is passed in that partner's taxable year in which the taxable year of the partnership for which the election was made ends, and any unused amount may be carried forward to the 5 succeeding taxable years of the partner. If a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

partnership elects to pass through to its partners a credit earned in its immediately preceding taxable year, a partner may use that credit in its taxable year in which the taxable year of the partnership for which the election was made ends, and any unused amount may be carried forward to the 4 succeeding taxable years of the partner.

- 2) *For taxable years ending on or after December 31, 2000, a partner that qualifies its partnership for a subtraction under Section 203(d)(2)(I) of IITA or a shareholder that qualifies a ~~subchapter~~ ~~S~~ corporation for a subtraction under Section 203(b)(2)(S) shall be allowed a credit under IITA Section 201(e) equal to its share of the credit earned under IITA Section 201(e) during the taxable year by the partnership or ~~subchapter~~ ~~S~~ corporation, determined in accordance with the determination of income and distributive share of income under ~~sections~~ ~~Sections~~ 702 and 704 and ~~subchapter~~ ~~S~~ of the Internal Revenue Code. [35 ILCS 5/201(e)(9)] Under this subsection (h)(2):*
- A) The provisions of this subsection (h)(2) apply to both partnerships and ~~subchapter~~ ~~S~~ corporations.
 - B) Credits are passed through only in the year earned. Any amount carried forward from a prior year cannot flow through to the partners or shareholders of the entity.
 - C) The share of credits allocable to a partner or shareholder who is not subject to Personal Property Tax Replacement Income Tax and who is not exempt from taxation under IRC ~~section~~ ~~Section~~ 501(a) do not pass through to that partner or shareholder. ~~Those~~ ~~Such~~ amounts may be used by the partnership or ~~subchapter~~ ~~S~~ corporation against ~~theirs~~ Personal Property Tax Replacement Income Tax liability it incurs on the share of its income attributable to such partners or shareholders.
 - D) Any credit passed through to a partner or shareholder under this subsection (h)(2) may be used in the taxable year of the partner or shareholder in which the taxable year of the entity that passes the credit through ends, and may be carried forward to the 5 succeeding taxable years of the partner or shareholder until used.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- E) Any credit passed through to a partnership or ~~subchapter~~~~Subchapter~~ S corporation under this subsection (h)(2) shall pass through to its partners or shareholders in the same manner as a credit earned by the partnership or ~~subchapter~~~~Subchapter~~ S corporation.

(Source: Amended at 35 Ill. Reg. 15092, effective August 24, 2011)

Section 100.2193 Student-Assistance Contributions Credit (IITA 218)

- a) For taxable years ending on or after December 31, 2009 and before December 31, 2020, each taxpayer is allowed a credit against the taxes imposed under IITA Section 201(a) and (b) in an amount equal to 25% of each matching contribution made by the taxpayer during the taxable year. (See IITA Section 218(a).)
- b) Matching Contribution. For purposes of this Section, the term "matching contribution" means the total amount paid by the taxpayer during the taxable year to an individual Illinois College Savings Pool account or Illinois Prepaid Tuition Trust Fund account for the benefit of a designated beneficiary, to the extent the amount paid does not exceed the total contributions made by an employee of the taxpayer during the taxpayer's taxable year to the same account for the benefit of the same designated beneficiary.
- c) Limitation. The maximum credit allowed under IITA Section 218 and this Section with respect to any contributing employee shall not exceed \$500 per taxable year.

EXAMPLE: Taxpayer is a calendar year taxpayer. Employee A is an employee of Taxpayer for the entire 2009 calendar year. During 2009, Employee A makes contributions totaling \$6,000 each to three separate College Savings Pool accounts established for the benefit of each of Employee A's three children. During 2009, Taxpayer makes payments totaling \$2,000 each to the same three accounts. Under subsection (a) of this Section, Taxpayer would be allowed a \$500 credit for each of the three \$2,000 matching contributions made during the taxable year, for a total credit of \$1,500. However, under this subsection (c), Taxpayer may claim a maximum credit of only \$500 in respect of the total of its contributions that match contributions made by Employee A. Therefore, the allowable credit is reduced from \$1,500 to \$500.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- d) In the case of a partnership or subchapter S corporation, the credit passes through to the owners as provided in the partnership agreement under IRC Section 704(a) or in proportion to their ownership of the stock of the subchapter S corporation under IRC Section 1366(a). (See IITA Section 218(b).) The credit earned by a partnership or subchapter S corporation shall be treated as earned by its owners as of the last day of the taxable year of the partnership or subchapter S corporation in which the matching contribution is made, and shall be allowed to the owner in the taxable year of the owner in which the taxable year of the partnership or subchapter S corporation ends.
- e) In no event shall a credit under this Section reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first. (IITA Section 218(c))
- f) Documentation of the Credit. A taxpayer claiming the credit allowed under IITA Section 218 and this Section must maintain records sufficient to document the date and amount of each payment made to an individual College Savings Pool account or Illinois Prepaid Tuition Trust Fund account, as well as documentation regarding the contribution the payment matches. (See IITA Section 218(d).) Documentation regarding the contribution the payment matches must include the employee's name, the account, and the amount and date of the employee's contribution.

(Source: Added at 35 Ill. Reg. 15092, effective August 24, 2011)

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))

- a) For taxable years ending on or after December 31, 2009, IITA Section 203 requires a taxpayer to make an addition modification in computing base income equal to the credit allowable to the taxpayer under IITA Section 218(a).

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

determined without regard to IITA Section 218(c). (IITA Section 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10)) IITA Section 218 allows a credit for certain amounts paid by an employer to an Illinois qualified tuition program. (See Section 100.2510 of this Part.)

- b) For purposes of IITA Section 203 and this Section, the "credit allowable to the taxpayer" that must be added to base income is the amount of the credit under IITA Section 218 eligible to be claimed by the taxpayer for a taxable year on a return filed with the Department, without reduction for any part of the credit that must be carried forward to taxable years following the credit year because the credit exceeds the taxpayer's liability. (See IITA Section 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10).)

(Source: Added at 35 Ill. Reg. 15092, effective August 24, 2011)

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))

- a) IITA Section 203(a)(2)(Y) allows individuals a subtraction modification in the computation of base income for taxable years beginning on and after January 1, 2002 equal to the amount contributed during the taxable year to an Illinois qualified tuition program, subject to the limitation described in subsection (b) of this Section. For purposes of this Section, "Illinois qualified tuition program" means:
- 1) A College Savings Pool Account under Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].
 - 2) For taxable years beginning on and after January 1, 2005, an Illinois Prepaid Tuition Trust Fund under the Illinois Prepaid Tuition Act [110 ILCS 979].
- b) For taxable years beginning on or after January 1, 2005, the total subtraction modification allowed a taxpayer under IITA Section 203(a)(2)(Y) and subsection (a) of this Section shall not exceed \$10,000 (\$20,000 if married filing jointly) per taxable year.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- c) "Contribution" Defined. For purposes of IITA Section 203(a)(2)(Y) and this Section, the term "contribution" means any payment directly allocated to an account for the benefit of a designated beneficiary or used to pay late fees or administrative fees associated with the account. In the case of a College Savings Pool Account, the contribution is the amount paid by the taxpayer to the College Savings Pool. In the case of an Illinois prepaid tuition contract, the contribution is the amount paid by the taxpayer for the contract under Section 45 of the Illinois Prepaid Tuition Act [110 ILCS 979/45].
- 1) Rollovers
- A) From an Out-of-State Plan. In the case of a rollover, as defined under IRC Section 529(c)(3)(C)(i), in which an amount is transferred from a qualified tuition program established and maintained by another state to an Illinois qualified tuition program, only the portion of the rollover that constituted investment in the account for federal income tax purposes shall be considered a contribution for purposes of IITA Section 203(a)(2)(Y) and this Section. (See IITA Section 203(a)(2)(Y).)
- B) From an Illinois Plan. In the case of a rollover, as defined under IRC Section 529(c)(3)(C)(i), in which an amount is transferred from one Illinois qualified tuition program to another Illinois qualified tuition program, no portion of the rollover shall be considered a contribution for purposes of IITA Section 203(a)(2)(Y) and this Section. The purpose of the subtraction modification for contributions to an Illinois qualified tuition program is to encourage and better enable Illinois families to finance the costs of higher education by increasing savings for higher education. A taxpayer's savings for higher education is not increased when amounts are rolled over from one Illinois plan to another Illinois plan. In addition, IITA Section 203(g) prohibits deduction of the same item more than once.
- 2) Change in Beneficiaries. A change in the beneficiaries of an existing plan shall not be considered a contribution for purposes of IITA Section 203(a)(2)(Y) and this Section.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 3) Employer Contributions. For purposes of this subtraction, contributions made by an employer on behalf of an employee under IITA Section 218 shall be treated as made by the employee.
- d) Limitations on Subtraction Modification
 - 1) The subtraction modification under IITA Section 203(a)(2)(Y) is allowed only to individuals. In the case of a contribution to a College Savings Pool Account, the subtraction is allowed only to the account "participant" or "donor" as defined in Section 16.5 of the State Treasurer Act. In the case of a contribution to an Illinois prepaid tuition contract, the subtraction is allowed only to the account "purchaser" as defined in Section 10 of the Illinois Prepaid Tuition Act.
 - 2) The subtraction modification is allowed only for contributions to either the Illinois College Savings Pool or Illinois Prepaid Tuition Trust Fund. There is no subtraction modification for contributions to a qualified tuition program established and maintained by another state.

(Source: Added at 35 Ill. Reg. 15092, effective August 24, 2011)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)

- a) Quarterly return. Each return required under Section 100.7300(a) shall be filed on or before the last day of the first calendar month following the calendar quarter for which the return is made. (See IITA Section 704A(b).)
- b) Monthly payments. Monthly payments required under Section 100.7300(d)(2) are due on or before the 15th day of the month following the month in which the tax was withheld or required to be withheld. (See IITA Section 704A(c)(3).)
- c) Semi-weekly payments.
 - 1) Semi-weekly payments required under Section 100.7300(d)(1) or 100.7310(b)(2)(B) are due:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday or Tuesday;
- B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday or Friday. (See IITA Section 704A(c)(1).)
- 2) If a payment due on a Friday or Wednesday under this subsection (c) would include amounts withheld in two different quarters, a separate payment must be made for the amounts withheld in each quarter.
- 3) Under 26 CFR 31.6302-1(c)(2)(iii), semi-weekly depositors are given at least three banking days following the close of the semi-weekly period by which to deposit taxes during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer has an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday. Under IITA Section 704A(d)(2), the Department may provide by regulation that any payment due under this subsection (c) *is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld.* Accordingly, employers making electronic payments of taxes withheld may use the due dates prescribed in 26 CFR 31.6302-1(c)(2)(iii).
- 4) *Beginning with calendar year 2011, semi-weekly payments required under Section 100.7300(d)(1) must be made by electronic funds transfer. (IITA Section 704A(c)(1))*
- d) Annual returns. Annual returns are due on or before:
- 1) January 31 of the year following the calendar year for which the return is made, in the case of an annual return under Section 100.7310(b)(1) (See IITA Section 704A(d)(1).); or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) the 15th day of the 4th month following the close of the taxpayer's tax year, in the case of an annual return under Section 100.7350. (See IITA Section 704A(e).)

(Source: Amended at 35 Ill. Reg. 15092, effective August 24, 2011)

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Organization, Public Information, Procedures, and Rulemaking
- 2) Code Citation: 2 Ill. Adm. Code 3500
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
3500.10	New
3500.20	New
3500.30	New
3500.40	New
3500.50	New
3500.60	New
3500.210	New
3500.310	New
3500.320	New
3500.330	New
3500.340	New
3500.350	New
3500.360	New
3500.370	New
3500.375	New
3500.380	New
3500.385	New
3500.390	New
3500.395	New
3500.410	New
- 4) Statutory Authority: 775 ILCS 40
- 5) Effective Date of Rules: August 25, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office at the address below and is available for public inspection.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 9) Notice of Proposed Rules Published in the Illinois Register: 35 Ill. Reg. 8113; May 27, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Other than grammatical and typographical corrections, the only change is contained in Section 3500.375(g), where the second sentence was moved to the end of the subsection.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking consists of the composition of the Torture Inquiry and Relief Commission and its staff, a description of the Commission records, the process for filing a claim of torture and making a decision on the claim, notification of the crime victim, and the annual Commission reports to the General Assembly and the Governor.
- 16) Information and questions regarding this rulemaking shall be directed to:
- Illinois Torture Inquiry and Relief Commission
c/o Executive Director David Thomas
Michael J. Bilandic Building
160 N. LaSalle Street, Room N506
Chicago, Illinois 60606
- 312/814-4608
- 17) Does this rule require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 500/5-25] No

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

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXV: TORTURE INQUIRY AND RELIEF COMMISSION

PART 3500

ORGANIZATION, PUBLIC INFORMATION, PROCEDURES AND RULEMAKING

SUBPART A: ORGANIZATION

Section	
3500.10	Commission Members
3500.20	Chair of the Commission
3500.30	Terms of Members
3500.40	Compensation and Expenses
3500.50	Director
3500.60	Other Staff

SUBPART B: PUBLIC INFORMATION

Section	
3500.210	Commission Records

SUBPART C: PROCEDURES

Section	
3500.310	Meetings
3500.320	Quorum
3500.330	Claim of Torture
3500.340	Initial Screening of Claim Form
3500.350	Wavier of Convicted Person's Procedural Safeguards and Privileges
3500.360	Informal Inquiry and Summary Dismissal
3500.370	Summary Referral
3500.375	Formal Inquiry
3500.380	Evidentiary Proceedings Before the Commission
3500.385	Decisions
3500.390	Notification of Crime Victim
3500.395	Commission Reports to General Assembly and Governor

SUBPART D: RULEMAKING

Section	
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TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

3500.410 Adoption of Rules

AUTHORITY: Implementing and authorized by the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

SOURCE: Adopted at 35 Ill. Reg. 15125, effective August 25, 2011.

SUBPART A: ORGANIZATION

Section 3500.10 Commission Members

- a) *The Illinois Torture Inquiry and Relief Commission consists of 8 voting members as follows:*
 - 1) *One retired Circuit Court Judge.*
 - 2) *One former prosecuting attorney.*
 - 3) *One law school professor.*
 - 4) *One who is engaged in the practice of criminal defense law.*
 - 5) *Three members of the public who are not attorneys and who are not officers or employees of the judicial branch.*
 - 6) *One former public defender.*
- b) *The members of the Commission shall be appointed by the Governor, with the advice and consent of the Senate. Members may be re-appointed for additional terms, as provided for under Section 25 of the Act. [775 ILCS 40/20(a)]*
- c) *The Governor also appoints alternate Commission members for the Commission members he or she has appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other disqualification arising in a particular case. Where an alternate member is called upon to serve in a particular place, the alternate member shall vote in the place of, and otherwise exercise the same powers as, the member which he or she is replacing. The alternate member shall have the same qualifications for appointment as the original member. In making the appointments, the Governor makes a good faith effort to appoint members*

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

with different perspectives of the justice system. The Governor also considers geographical location, genders and racial diversity in making the appointments.
[775 ILCS 40/20(a-1)]

Section 3500.20 Chair of the Commission

The retired judge who is appointed as a member shall serve as Chair of the Commission. [775 ILCS 40/20(b)]

Section 3500.30 Terms of Members

- a) *Of the initial members, the appointments under Section 3500.10(a)(3) and (6) are for one-year terms, the appointments under Section 3500.10 (a)(1), (2), and (4) are for 2-year terms, and the appointments under Section 3500.10 (a)(5) are for 3-year terms. Thereafter, all terms shall be for 3 years. Members of the Commission shall not serve more than 2 consecutive 3-year terms, plus any initial term of less than 3 years. Unless provided otherwise by the Act, all terms of members begin on January 1 and end on December 31.*
- b) *Members serving by virtue of elective or appointive office may serve only so long as the office holders hold those respective offices. The Chief Judge of the Cook County Circuit Court may remove members for good cause shown. Vacancies occurring during the expiration of a term shall be filled in the manner provided for the members first appointed.* [775 ILCS 40/25(a)]

Section 3500.40 Compensation and Expenses

Commission members receive no salary for serving, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Commission from funds appropriated by the General Assembly for the purpose, or from funds obtained from sources other than the General Assembly. [775 ILCS 40/25(b)]

Section 3500.50 Director

The Commission employs a Director, who is an attorney licensed to practice in Illinois. The Director assists the Commission in developing rules and standards for cases accepted for review, coordinating investigation of cases accepted for review, maintaining records for all case investigation, preparing reports outlining Commission investigations and recommendations to the trial court, and applying for and accepting on behalf of the Commission any funds that may

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

become available from government grants, private gifts, donations, or bequests from any source.
[775 ILCS 40/30]

Section 3500.60 Other Staff

Subject to the approval of the Chair, the Director employs such other staff and contracts for services as is necessary to assist the Commission in the performance of its duties, and as funds permit. [775 ILCS 40/30]

SUBPART B: PUBLIC INFORMATION

Section 3500.210 Commission Records

- a) The official record in every claim filed with the Commission consists of the Claim Form (see 20 Ill. Adm. Code 2000.Appendix B) and all subsequent pleadings, notices, subpoenas, evidence received, photographs, computer disks, transcripts, briefs, reports, memoranda, orders, findings of fact and decisions and amendments to these documents.
- b) The official record is confidential and not subject to public disclosure until after the Commission's final decision in the case, except as otherwise provided in this Part, the Freedom of Information Act [5 ILCS 140], or the Open Meetings Act [5 ILCS 120].
- c) After the Commission's final decision on the claim, the official record shall be available for public inspection upon making appropriate arrangements with the Director.
- d) The Commission shall maintain the official record in its office during the full period the claim is active and for an additional period of two years from the date of the Commission's final decision. Final decisions shall be retained as part of the permanent record of the Commission.
- e) Inspection of any records that are available for that purpose shall be permitted only at the Commission's office. Inspection appointments shall take place only during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. Persons inspecting records shall not be permitted to take briefcases, folders, or similar materials into the room where inspection takes place. A Commission employee may be present during

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

inspection. Records to be copied will be identified and segregated during the course of the inspection.

- f) When a person requests a copy of a record maintained in an electronic format, the Commission shall furnish it in the electronic format specified by the person. If it is not feasible to furnish the record in the specified electronic format, then the Commission shall furnish it in the format in which it is maintained by the Commission, or in paper format, at the option of the person making the request.
- g) Copying Fees:
 - 1) Unless a fee is otherwise fixed by statute, the Commission will provide copies of records and certification of records in accordance with the fee schedule set forth in 20 Ill. Adm. Code 2000.Appendix F.
 - 2) Copies of records will be provided only after payment of any fees due. Payment must be by certified or cashier's check, or by money order, payable to "Treasurer, State of Illinois".
 - 3) The Commission will provide copies of records without charge to federal, State, county and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
 - 4) Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not apply to those records when furnished in an electronic format.

SUBPART C: PROCEDURES

Section 3500.310 Meetings

- a) The Commission meets a minimum of once every 6 months and may also meet more often at the call of the Chair. The Commission meets at such time and place as designated by the Chair, in accordance with the provisions of the Open Meetings Act. Notice of the meetings is given on the Commission's website, www.Illinois.gov/ihrc, in accordance with the provisions of the Open Meetings Act. [775 ILCS 40/20(b)]

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- b) The Commission meets in an area provided by the Illinois Human Rights Commission or another State agency.
- c) At the conclusion of the business portion of each Commission meeting that is open to the public pursuant to the Open Meetings Act, the Commission shall set aside a period of time for public comment. Any person desiring to address the Commission shall be allowed up to three minutes for comments or questions. Only one person may speak on behalf of any organization.
- d) Because of time demands on the Commission, the total time for presentations by the public at any meeting shall be limited to 30 minutes unless a Commissioner moves for, and the Commission approves, a longer period. Any person wishing to address the Commission but unable or not allowed to do so may submit a written statement to the Commission.
- e) Personal attacks, use of profane language, and social and/or ethnic slurs will not be tolerated. Speakers are strongly encouraged to refrain from rude, derogatory and abusive comments and personal attacks.
- f) Speakers making rude, profane or slanderous remarks, or who become boisterous while addressing or while attending the meeting, may be requested to leave by the presiding Chair.
- g) Any person may record by tape, film or other means the meetings of the Commission or its committees that are open to the public pursuant to the Open Meetings Act. However, if the recording process interferes with the overall decorum and proceeding of a meeting, the recording will be discontinued at the discretion of the presiding Chair.

Section 3500.320 Quorum

A majority of the voting members constitutes a quorum. All Commission votes are by a majority vote of the appointed voting members. [775 ILCS 40/20(b)]

Section 3500.330 Claim of Torture

A request for a formal inquiry into a claim of torture is accomplished by filing a Claim Form (see 20 Ill. Adm. Code 2000.Appendix B):

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- a) Any individual, court or agency may complete and file a Claim Form on behalf of a living person asserting a claim of torture.
- b) Any person may call or write the Commission to request that a Claim Form be mailed or faxed to that person in order to file a claim. The Commission also maintains a website (www.Illinois.gov/ihr) from which a Claim Form may be printed or downloaded.
- c) A completed Claim Form may be filed by either mailing it to the Illinois Torture Inquiry and Relief Commission, 160 N. LaSalle Street, Room N506, Chicago IL 60601, or by faxing it to (312)814-4598.

Section 3500.340 Initial Screening of Claim Form

- a) Upon receipt of the Claim Form, the Director, or his or her designee, will conduct an initial screening of the Claim Form to determine whether it satisfies the following minimum criteria required for the Commission to consider a claim of torture:
 - 1) The Claim Form is properly completed; and
 - 2) The claim meets the definitions contained in 20 Ill. Adm. Code 2000.10(d).
- b) If the Claim Form is not properly completed, the Director shall return it to the person who submitted it, indicating why the Form has not been filed and giving the opportunity to resubmit it.
- c) If the Claim Form is properly completed, the claim will be filed and assigned a claim number. However, if the Form demonstrates that the claim does not meet the definitions contained in 20 Ill. Adm. Code 2000.10(d), the Director shall recommend in a written report to the Commission that the claim be denied for the reasons specified in the report.
- d) The Commission shall vote to accept or to reject the Director's recommendation by majority vote of the voting members present.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- e) If the Commission accepts the recommendation to deny the claim, the Director shall notify the convicted person, and the person filing the claim if other than the convicted person, in writing that the claim was denied and the reasons for the denial.
- f) All other claims will proceed to the Waiver of Convicted Person's Procedural Safeguards and Privileges under Section 3500.350.

Section 3500.350 Waiver of Convicted Person's Procedural Safeguards and Privileges

- a) If the Director determines that the Claim Form satisfies the requirements of the initial screening, the Director, or his or her designee, will obtain a properly signed and witnessed Waiver Form (see 20 Ill. Adm. Code 2000.Appendix C) from the convicted person before proceeding further.
- b) The *convicted person* must sign a written waiver in which the convicted person waives the right against self-incrimination under the United States Constitution and the Constitution of the State of Illinois only as it pertains to the offense for which the person was convicted and with respect to which the person is claiming torture. The convicted person must also agree to cooperate fully with the Commission and agree to provide full disclosure regarding the torture inquiry. The waiver does not apply to matters unrelated to a convicted person's claim of torture.
- c) *The convicted person has the right to advice of counsel before the execution of the waiver and, if a formal inquiry is initiated, throughout the duration of the formal inquiry. If counsel represents the convicted person, the convicted person's counsel must be present at the signing of the waiver.*
- d) If the convicted person is not represented by counsel, *the Commission Chair shall determine if the person is indigent and, if so, enter an order providing for the appointment of counsel for the purpose of advising on the waiver and representing the convicted person throughout the remainder of the proceedings upon the claim.* [775 ILCS 40/40] The determination of indigency shall be made by having the convicted person complete and send to the Director the Application and Order for Appointed Counsel Based Upon Indigency contained in 20 Ill. Adm. Code 2000.Appendix G. The Director shall furnish an Application to the convicted person upon request. The Director shall forward a properly completed Application to the Chair for purpose of making the decision regarding indigency.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- e) If the convicted person refuses to sign the Waiver Form, the Director shall recommend to the Commission that the claim of torture be dismissed. The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
- f) If the Director determines that the Waiver Form has been properly signed and witnessed, the claim shall proceed to Informal Inquiry under Section 3500.360.

Section 3500.360 Informal Inquiry and Summary Dismissal

- a) After the completed Claim Form and Waiver Form have been received, an informal inquiry shall be performed by the Director or his or her designee, consisting of taking all reasonable steps to interview the convicted person, interview any witnesses identified by the convicted person, and review any documents provided by the convicted person.
- b) If, after completion of the informal inquiry, the Director finds that there appears to be no reasonable possibility that the claim is credible, the Director shall recommend to the Commission that the claim be summarily dismissed. A written report will be prepared documenting this finding and will be presented to the Commission for its review.
- c) The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
- d) If the Commission accepts the Director's recommendation, the convicted person, and the person filing the Claim Form if other than the convicted person, shall be notified in writing that the claim has been summarily dismissed and the reasons for the dismissal.

Section 3500.370 Summary Referral

- a) If the Director's informal inquiry under Section 3500.360 demonstrates that the claim satisfies each of the four conditions listed in this subsection (a), and the other available evidence demonstrates that the claim of torture is credible and the case merits judicial review, the Director may recommend that the Commission forego a formal inquiry, as defined in Section 3500.375, and instead refer the case

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

directly to the Chief Judge of the Circuit Court of Cook County for appropriate relief:

- 1) The person has consistently claimed to have been tortured;
 - 2) The claim is strikingly similar to other claims of torture contained in the Reports of the Chicago Police Department's Office of Professional Standards, and the Report of the Special State's Attorney, regarding their investigations of Jon Burge and police officers under his command;
 - 3) The officers accused are identified in other cases alleging torture; and
 - 4) The claim of torture is consistent with the Office of Professional Standards' findings of systematic and methodical torture at Area 2 under Jon Burge.
- b) The Director's recommendation shall be presented to the Commission in a written report documenting the finding and the reasons for the finding.
 - c) The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
 - d) If the Commission accepts the Director's recommendation, the convicted person, and the individual filing the Claim Form if other than the convicted person, shall be notified in writing by the Director that the claim has been referred to the Chief Judge of the Circuit Court of Cook County for appropriate relief.
 - e) Nothing in this Section shall be construed to preclude the Commission from exercising any of the powers listed in Section 3500.375(a) in making the determination to summarily refer the claim.

Section 3500.375 Formal Inquiry

- a) If the Claim is not summarily dismissed or summarily referred, then a formal inquiry will be initiated by the *Commission under the auspices of the Director*. *In conducting the formal inquiry, any measure contained in the Code of Civil Procedure [735 ILCS 5] and the Code of Criminal Procedure of 1963 [725 ILCS 5] may be used to obtain information necessary to the inquiry, including but not limited to:*

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 1) Issuing and serving *subpoenas* (see 20 Ill. Adm. Code 2000.Appendices D and E) *or other process to compel the attendance of witnesses and the production of evidence*;
 - 2) Administering oaths;
 - 3) Issuing written interrogatories;
 - 4) Conducting oral depositions;
 - 5) Petitioning the *appropriate Circuit Court for enforcement of process or for other relief*, such as contempt; [775 ILCS 40/40(d)]
 - 6) Conducting physical and/or psychological examinations of the convicted person to ascertain evidence of torture;
 - 7) Hiring experts or other specialists as needed to assist the Commission in the inquiry; and
 - 8) Conducting on-site visits to detention centers or other locations where torture is alleged to have taken place.
- b) *All State discovery and disclosure statutes in effect at the time of the formal inquiry shall be enforceable as if the convicted person were currently being tried for the charge for which the convicted person is claiming torture.* [775 ILCS 40/40(f)]
- c) *In conducting the formal inquiries, priority will be given to those cases in which the convicted person is currently incarcerated solely for the crime to which the convicted person claims torture by Jon Burge or officers under his command, or both.* [775 ILCS 40/35(2)]
- d) *All records of the Commission are confidential until the proceedings before the Commission are concluded and a final decision has been made by the Commission.* [775 ILCS 40/45(e)]
- e) Any person who is a witness appearing voluntarily or pursuant to subpoena, shall be advised of the right against self-incrimination under the United States

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Constitution and the Constitution of the State of Illinois. However, the witness shall also be advised that the Commission may draw an adverse inference from the refusal of the witness to answer questions.

- f) If a witness is represented by counsel, counsel may be present at proceedings requiring the presence of the witness, but counsel shall not be permitted to participate in the proceedings in any way.
- g) *If, at any point during an inquiry, the convicted person refuses to comply with requests of the Commission or is otherwise deemed uncooperative by the Commission, the Commission shall discontinue the inquiry.* [775 ILCS 40/40(g)]
The Director may recommend that the inquiry be terminated. The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
- h) Whenever any person knowingly fails or refuses to comply with a subpoena served in accordance with this Section, the Commission will petition the appropriate Circuit Court for an order enforcing the subpoena.
- i) At the completion of the formal inquiry, the Director shall report the results and his or her recommendation to the full Commission. The written report will summarize all the relevant evidence, include the reasons for the recommendation, and present any other matters necessary for the Commission to make an informed decision regarding the claim. Following transmission of the Director's report and recommendation, the Commission may elect to receive additional evidence in the form of an evidentiary proceeding under Section 3500.380. In all other cases, the Commission shall vote to decide the disposition of the claim as set forth in Section 3500.385.

Section 3500.380 Evidentiary Proceedings Before the Commission

- a) If the Commission elects to hold an evidentiary hearing, the following procedures will apply:
 - 1) At the hearing, all relevant evidence from the formal inquiry shall be presented to the full Commission in summary form as part of the Director's report and recommendation.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 2) The Director shall present the additional evidence the Commission has elected to consider, unless the Commission orders otherwise.
 - 3) All testimony taken shall be under oath or affirmation.
 - 4) The appearance of a witness necessary for the taking of evidence, including the convicted person, may be compelled by serving a subpoena upon that person in accordance with the procedures set forth in 20 Ill. Adm. Code 2000.40. The subpoena also may require the production at the hearing of documents or things.
 - 5) No Commission employee shall testify at an evidentiary proceeding regarding the contents of any files, documents, reports, memoranda, or records of the Commission, or of the results of any investigation conducted by the Commission, except upon Order of the Commission. Such an Order will be issued only if the information to be elicited from the testimony is admissible and cannot be obtained through other means.
- b) Any person present for the purpose of the evidentiary proceeding will not be allowed to address the Commission except as part of the scheduled proceeding.
 - c) Any hearing before the full Commission shall be conducted subject to this Part and the Open Meetings Act. All proceedings of the full Commission shall be recorded by audio and transcribed as part of the record. All Commission members' votes shall be recorded in the record.
 - d) After reviewing all the relevant evidence from the formal inquiry, and the additional evidence taken during an evidentiary proceeding, if any, the Commission shall vote to decide the claim as set forth in Section 3500.385.

Section 3500.385 Decisions

- a) *All 8 voting members of the Commission, including alternate members if necessary, shall participate in the vote.*
- b) *If at least 5 voting members of the Commission decide by a preponderance of the evidence that there is sufficient evidence of torture to conclude that the claim is credible and merits judicial review for appropriate relief, the case shall be referred to the Chief Judge of the Circuit Court of Cook County by filing with the*

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Clerk of the Court the written decision of the Commission, accompanied by findings of fact and the record in support of the written decision. Any written dissents from the decision by a member of the Commission shall also be filed. A copy of these materials shall be served on the State's Attorney.

- c) *If fewer than 5 of the voting members decide by a preponderance of the evidence that there is sufficient evidence of torture to conclude that the claim is credible, the Commission shall determine that the claim of torture does not merit judicial review for appropriate relief. The Commission shall document that determination in a written decision, along with supporting findings of fact, and file those documents and supporting materials with the Court Clerk in the circuit of original jurisdiction, with a copy to the State's Attorney and the Chief Judge. Any written dissents from the decision by a member of the Commission shall also be filed.* [775 ILCS 40/45(c)]
- d) The Director shall notify both the convicted person and the victim in writing of the Commission's decision regarding the claim, and furnish them with a copy of the written decision. This notice shall be given within 30 days after the written decision is issued by the Commission.

Section 3500.390 Notification of Crime Victim

- a) *If a formal inquiry is initiated, the Director shall use all due diligence to give written notification to the victim in the case, explaining the inquiry process and notifying the victim of the right to present to the Director in writing the victim's views and concerns throughout the inquiry.* [775 ILCS 40/40(c)]
- b) *The Director shall use all due diligence to notify the victim in writing at least 30 days before any proceedings of the full Commission held in regard to the case involving the victim. The victim shall also be notified that the victim is permitted to attend proceedings of the full Commission otherwise closed to the public, subject to any limitations imposed by the Act and subject to Section 2(c)(14) of the Open Meetings Act. If the victim plans to attend proceedings otherwise closed to the public, the victim must notify the Director in writing at least 10 days in advance of the proceedings of his or her intent to attend.*
- c) Notwithstanding the requirements of subsection (d), *the Commission may close any portion of the proceedings to the victim, if the victim is to testify and the*

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Commission determines that the victim's testimony would be materially affected if the victim hears other testimony at the proceeding. [775 ILCS 40/45(b)]

Section 3500.395 Commission Reports to General Assembly and Governor

- a) *On January 1 of each year, the Commission shall report on its activities to the General Assembly and the Governor.*
- b) *The report may contain recommendations of any needed legislative changes related to the activities of the Commission. The report shall also recommend the funding needed by the Commission, the State's Attorneys and the Department of State Police in order to meet the responsibilities of each agency under the Act. Recommendations concerning the State's Attorneys or the Department of State Police shall only be made after consultations with the Illinois State's Attorneys Association, the Department of State Police and the Attorney General. [775 ILCS 40/60]*

SUBPART D: RULEMAKING

Section 3500.410 Adoption of Rules

The Commission adopts rules in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Policy, Hearings, and Forms
- 2) Code Citation: 20 Ill. Adm. Code 2000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2000.10	New
2000.20	New
2000.30	New
2000.40	New
2000.50	New
2000.60	New
2000.APPENDIX A	New
2000. APPENDIX B	New
2000. APPENDIX C	New
2000. APPENDIX D	New
2000. APPENDIX E	New
2000. APPENDIX F	New
2000. APPENDIX G	New
- 4) Statutory Authority: 775 ILCS 40
- 5) Effective Date of Rules: August 25, 2011
- 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 rules, including any material incorporated by reference, is on file in the agency's principal office at the address below and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: 35 Ill. Reg. 8130; May 27, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None, other than grammatical and typographical corrections.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

agreements issued by JCAR? Yes

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking consists of a definition of terms used in the rules, a description of the duties and powers of the Torture Inquiry and Relief Commission, a description of the nature of Commission investigations, the procedure for issuance and service of subpoenas, a description of the available relief, the procedure for review of Commission decisions, and examples of various forms to be used by the Commission.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:
- Illinois Torture Inquiry and Relief Commission
c/o Executive Director David Thomas
Michael J. Bilandic Building
160 N. LaSalle Street, Room N506
Chicago, Illinois 60606
- 312/814-4608
- 17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER VIII: TORTURE INQUIRY AND RELIEF COMMISSIONPART 2000
POLICY, HEARINGS AND FORMS

Section	
2000.10	Definition of Terms
2000.20	Duties and Powers of Commission
2000.30	Nature of Investigations
2000.40	Subpoenas
2000.50	Relief
2000.60	Review of Decisions
2000.APPENDIX A	Employee Confidentiality Agreement
2000.APPENDIX B	Form to File Claim of Torture
2000.APPENDIX C	TIRC Waiver Form
2000.APPENDIX D	Subpoena and Certificate of Service
2000.APPENDIX E	Subpoena Duces Tecum and Certificate of Service
2000.APPENDIX F	Fee Schedule for Duplication and Certification of Records
2000.APPENDIX G	Application and Order for Appointed Counsel Based Upon Indigency

AUTHORITY: Implementing and authorized by the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

SOURCE: Adopted at 35 Ill. Reg. 15142, effective August 25, 2011.

Section 2000.10 Definition of Terms

"Act" means the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

"Alternate member" means an individual appointed by the Governor to serve in the stead of a Commission member who cannot participate in a Commission vote due to scheduling conflicts, conflict of interest, disability or other disqualifications (see 2 Ill. Adm. 3500.10(c)).

"Chair" means the chair of the Commission, who is the retired judge appointed to the Commission by the Governor.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

"Claim of torture" means a claim on behalf of a living person convicted of a felony in Illinois asserting that the person was tortured into confessing to the crime for which the person was convicted, the tortured confession was used to obtain the conviction, and there is some credible evidence related to the allegations of torture. [775 ILCS 40/5(1)]

"Commission" or "TIRC" means the Illinois Torture Inquiry and Relief Commission. [775 ILCS 40/5(2)]

"Convicted person" means the person asserting a claim of torture under the Act. [775 ILCS 40/5(3)]

"Director" means the Director of the Commission, who is an attorney licensed to practice in Illinois. The Director assists the Commission in developing rules and standards for cases accepted for review, coordinating investigation of cases accepted for review, maintaining records for all case investigation, preparing reports outlining Commission investigations and recommendations to the trial court, and applying for and accepting on behalf of the Commission any funds that may become available from government grants, private gifts, donations, or bequests from any source. [775 ILCS 40/30]

"Torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime.

"Victim" means the victim of the crime of which the person claiming torture has been convicted, including, if that person is deceased, the next of kin of that person, which shall be the parent, spouse, child, or sibling of the deceased. [775 ILCS 40/5(5)]

Section 2000.20 Duties and Powers of Commission

- a) The Commission is an independent commission created by statute to implement an extraordinary procedure to investigate and determine factual claims related to certain allegations of torture.
- b) The Commission has the duty and power to:

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

- 1) *Establish the criteria and screening process to be used to determine which cases shall be accepted for review;*
- 2) *Conduct inquiries into claims of torture, as that term is defined in Section 2000.10(d);*
- 3) *Coordinate the investigation of cases accepted for review;*
- 4) *Maintain records for all case investigations;*
- 5) *Prepare written reports outlining Commission investigations and recommendations to the trial court at the completion of each inquiry; and*
- 6) *Apply for and accept any funds that may become available for the Commission's work from government grants, private gifts, donations or bequests from any source. [775 ILCS 40/35]*

Section 2000.30 Nature of Investigations

The Commission shall conduct all investigations in a professional and thorough manner, and all investigations shall be properly documented and result in a written report of findings and a decision. The Commission does not represent any individual, but instead functions solely to determine if a claim of torture is credible and merits judicial review for appropriate relief.

Section 2000.40 Subpoenas

- a) A subpoena in the form specified in Appendix D may be issued to compel the attendance of witnesses.
- b) A subpoena duces tecum, in the form specified in Appendix E, may be issued to compel the production of records, correspondence or other documents.
- c) Witness and mileage fees shall be the same as are paid witnesses in the Circuit Courts of the State of Illinois, as set forth in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3].
- d) Service on the subpoenaed person shall be by personal service, certified mail or facsimile, or by leaving a copy at the principal office or place of business of a

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

subpoenaed corporation or partnership. A subpoena shall be served reasonably in advance of its return date.

Section 2000.50 Relief

- a) *If the Commission concludes there is sufficient evident of torture to merit judicial review, the Chair shall request the Chief Judge of the Circuit Court of Cook County to assign the case to a trial judge for consideration of the evidence and the appropriate relief. [775 ILCS 40/50(a)]*
- b) The Chair shall recommend that the case be assigned to a judge other than the judge who tried the criminal case and other than the judge who presided over any previous post-conviction proceedings.
- c) The Commission has no authority to award monetary compensation, even if it concludes there is sufficient evidence of torture to merit judicial review for other relief.
- d) A claim of torture asserted through the Commission does not adversely affect the convicted person's rights to other post-conviction relief.
- e) *The Commission has the discretion to refer its findings and written decision, along with the supporting record and evidence, to such other parties or entities as the Commission deems appropriate. [775 ILCS 40/45(d)]*

Section 2000.60 Review of Decisions

The decisions of the Commission are final and are subject to review as final decisions under the Administrative Review Law [735 ILCS 5/Art.III] pursuant to which the decision may be overturned only if the court finds that it is against the manifest weight of the evidence. [775 ILCS 40/55(a)]

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX A Employee Confidentiality Agreement

ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

Employee Confidentiality Agreement

It is the policy of the Illinois Torture Inquiry and Relief Commission (TIRC) to protect the confidentiality it receives, including information about investigations, confidential informants, and other sensitive information. As part of your employment with TIRC you may have access to, among other things, TIRC electronic data, investigation files, and other sensitive information, which is subject to the following conditions:

I, _____, understand that the information that I encounter during my employment at TIRC is confidential. I also understand that disclosure of that information to any individual outside of TIRC could compromise an investigation. I agree to respect the confidentiality of individuals to whose records and identity I have access. If I have a question regarding the confidentiality of a particular piece of information, I will ask the Director of TIRC for advice.

With regard to electronic data, I, _____, also understand that all such information is confidential, including the fact that an investigation has been opened. Access or use of electronic data is restricted to TIRC business and may not be used for other purposes or to satisfy personal curiosity. I agree to follow the policies and procedures established by TIRC for the use of the electronic data. Failure to do so may result in the revocation of my ability to access the data and/or disciplinary action, including termination of my employment.

I agree, by my signature below, that, absent authority by law or the express written consent of the Director, I will never disclose the existence of an investigation, its progress, its resolution, the TIRC recommendation, or any information about an investigation to any party other than the employees of TIRC and/or a Commission member. I understand that, even should the investigation become public, I am not permitted to discuss the investigation with anyone absent the express, written consent of the Director. I also understand that, upon termination of my employment with TIRC, I continue to be bound by this agreement and will not discuss even the existence of an investigation with anyone.

I understand that my failure to abide by this agreement may result in my immediate termination or other appropriate disciplinary action.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Employee Signature

Date

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX B Form to File Claim of Torture

FORM TO FILE CLAIM OF TORTURE WITH TIRC

1. Name and current address of person claiming to have been tortured:

2. Name and current address of person signing this form (if different than No. 1 above):

3. Details of claimant's felony conviction based upon allegedly tortured confession:

a. Circuit Court: _____
b. Year: _____
c. Crimes of Conviction: _____
d. Sentence: _____
e. Case Number (if known): _____

4. Details of alleged torture:

a. Law enforcement agency: _____
b. Dates: _____
c. Names of persons committing alleged torture: _____

d. Brief description of alleged torture: _____

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

5. As a result of the torture described above, did you confess to the offense of which you were convicted? Yes No

6. If you did confess, was that confession used against you to obtain the conviction? Yes No

7. Names and current addresses of persons who could support your claim:

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

8. Location of documentation supporting your claim: _____

Claimant or Person Signing on Claimant's Behalf

Date

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX C TIRC Waiver Form**TIRC WAIVER FORM**

I, _____, was born on _____. I have not consumed any drugs or alcohol in the last 24 hours, other than prescription medication consisting of _____, and I am not under the influence of drugs or alcohol at the present time. I am otherwise of sound mind and body.

I have filed, or caused to be filed on my behalf a Claim of Torture with the Illinois Torture Inquiry and Relief Commission (TIRC). I am represented by counsel, _____, who is present or has stated in writing (attached to this Waiver) that she/he cannot be present. I have discussed this Waiver thoroughly with my counsel, and I am satisfied with the advice I have received. If my counsel is not present, I am comfortable proceeding in counsel's absence.

It is my understanding that the TIRC, by statute, cannot investigate my Claim if I refuse to sign this Waiver, and that is the reason I am voluntarily signing it. No promises or threats have been made to induce me to sign the Waiver, other than the fact that the TIRC will agree to investigate my Claim, in accordance with its rules and procedures. No promises have been made to me by anyone as to what the outcome of that investigation will be.

It is also my understanding that, by signing this Waiver, I am giving up my right not to incriminate myself under the United States Constitution and the Constitution of the State of Illinois, pertaining only to the offense of conviction regarding which I am claiming torture. Anything I say pertaining to that offense that might incriminate me can and will be used against me in the investigation and/or a court of law. This waiver does not apply to matters unrelated to my claim of torture.

Finally, it is my understanding that I must continue to cooperate with the TIRC throughout the investigation into my claim of torture and that, if I refuse to cooperate at any time, the TIRC may terminate the investigation. I also realize that the TIRC has no power to award any money to me for any reason.

By signing this Waiver, I acknowledge that I have read this Waiver and discussed the terms of it with my counsel, and that is my free and voluntary decision to sign it. A copy of this signed Waiver will be provided to me.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Claimant

Date

Witness

Date

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX D Subpoena and Certificate of Service



ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

160 North LaSalle Street, Room N506

Chicago, Illinois 60601

312/814-4608

SUBPOENA

To:

Subpoena No.: 20__-00 _____

Case No.: ____ - _____

WE COMMAND YOU, pursuant to the Illinois Torture Inquiry and Relief Commission Act, to appear at the Office of the Commission, 160 N. LaSalle Street, Room N506, Chicago IL 60601 on _____, 2011, at the hour of _____ a.m. / p.m.

Personal appearance in answer to this subpoena is required. Failure to respond may result in punishment as required by law.

By Order of the Illinois Torture Inquiry and Relief Commission

Director

At Chicago, Illinois this ____ day of _____, 20__

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

**ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION
CERTIFICATE OF SERVICE**

I, _____, hereby certify that, on the ____ day of _____, 2011, I served the attached subpoena on _____, the person named or the agency identified, by furnishing that person the subpoena at _____ (address).

The subpoena was served by _____ .
(Indicate personal service, certified mail or facsimile.)

Signature

Date

Notary Public

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX E Subpoena Duces Tecum and Certificate of Service



ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

160 North LaSalle Street, Room N506

Chicago, Illinois 60601

312/814-4608

SUBPOENA DUCES TECUM

To:

Subpoena No.: 20__-00 _____

Case No.: ____ - _____

WE COMMAND YOU, pursuant to the Illinois Torture Inquiry and Relief Commission Act, to provide the Commission Office, 160 N. LaSalle Street, Room N506, Chicago IL 60601 on or before (two weeks after signature date) with all the following books, records, electronic data and papers that are in your possession, custody or control:

Personal appearance in answer to this subpoena is not required. Information may be submitted by mail to the Commission Office at the above address. Failure to respond may result in punishment as provided by law.

By Order of the Illinois Torture Inquiry and Relief Commission

Director

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Dated at Chicago, Illinois this _____ day of _____, 20__

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

**ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION
CERTIFICATE OF SERVICE**

I, _____, hereby certify that, on the ____ day of _____, 20__, I served the attached subpoena duces tecum on _____, the person named or the agency identified, by furnishing that person the subpoena duces tecum at _____ (address). The subpoena duces tecum was served by _____ .
(Indicate personal service, certified mail or facsimile.)

Signature

Date

Notary Public

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX F Fee Schedule for Duplication and Certification of Records

<u>TYPE OF DUPLICATION</u>	<u>FEE (per copy)</u>
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No Charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
<u>CERTIFICATION FEE</u>	<u>\$1.00/record</u>

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by requester.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Section 2000.APPENDIX G Application and Order for Appointed Counsel Based Upon Indigency

IN RE: TIRC Claim No.:

APPLICATION FOR APPOINTED COUNSEL BASED UPON INDIGENCY

I, _____, on oath state:

- 1. I am employed as a(n) _____ by _____.
- 2. My other sources of income (including spouse's income) or support are: _____.
- 3. The amount of income that I expect for this year is \$ _____.
- 4. My income for the previous year was \$ _____.
- 5. The persons dependent on me for support are _____.
- 6. My other sources of income are: SSI Public Aid SNAP Benefits Family Assistance Foster Care Aid to Aged, Blind and Disabled Temporary Assistance for Needy Families General Assistance State Transitional Assistance State Children and Family Services Other: _____ \$ _____ (per month).
- 7. The nature and value of property I own includes: Real Estate (Describe property, specify address, present value and mortgage liens outstanding.) _____
 Cash, Bank Accounts, etc. \$ _____ Clothing and Jewelry \$ _____
 Motor Vehicle – Model _____ Year _____ Value \$ _____
- 8. My monthly living expenses, including payments of debts and child support, are \$ _____
- 9. I am unable to pay the cost of counsel for this claim and to do so would cause a substantial hardship on me and my family.

Under penalties of perjury and/or contempt, the undersigned certifies that the statements set forth in this Application are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that s/he verily believes the same to be true.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

Signature of Applicant

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF ADOPTED RULES

ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION**ORDER**

IN RE: TIRC Claim No. :

- The Claimant, having demonstrated indigency, is appointed counsel for the limited purpose of advising Claimant regarding the Waiver procedure set forth in 2 Ill. Adm. Code 3500.350, and, if a Formal Inquiry is initiated pursuant to 2 Ill. Adm. Code 3500.375, regarding the Formal Inquiry as long as the Claim is pending before the Torture Inquiry and Relief Commission. Counsel is appointed to advise Claimant only with regard to Claimant's pending Claim before the Commission, and not about any other legal matters Claimant may have.

- The Claimant's Application for appointed counsel is denied because the Application fails to demonstrate indigency.

Date

TIRC Chair

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Illinois Cares Rx Program
- 2) Code Citation: 89 Ill. Adm. Code 119
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
119.20	Amendment
119.30	Amendment
119.50	Amendment
119.60	Amendment
119.90	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: September 1, 2011
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking will not expire prior to the 150-day period.
- 7) Date Filed with the Index Department: August 29, 2011
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency rulemaking is necessary in order to operate the Illinois Cares Rx program within its FY12 appropriation and the requirements of Public Act 97-74, which requires that changes be made effective September 1, 2011. Public Act 97-74 became law on June 30, 2011. The proposed rulemaking was published at 35 Ill. Reg. 12187 on July 22, 2011. However, there was insufficient time for those rules to become effective prior to the statutorily required date. Public Act 97-74 gave specific emergency rulemaking authority for these rules. These rules are necessary for the public interest, safety and welfare.
- 10) Complete Description of the Subjects and Issues Involved: The proposed rulemaking implements changes to the Illinois Cares Rx (ICRx) program that reduce program liability. The income limit of approximately 250% of Federal Poverty Level (FPL) has been changed to an income limit of 200% of FPL. Further, eliminates the ICRx Rebate program that provides a \$25 monthly rebate to participants who have private coverage,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

coverage through Veterans Affairs, or a non-coordinating Part D plan. These amendments also allow for changes to cost-sharing.

- 11) Are there any other proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding these emergency amendments shall be directed to:

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

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 119

ILLINOIS CARES RX PROGRAM

Section

119.10 Definitions

119.20 Eligibility

EMERGENCY

119.30 Low Income Subsidy

EMERGENCY

119.40 Automatic Enrollment of Program Beneficiaries

119.50 Assignment and Coordination of Benefits

EMERGENCY

119.60 Covered Services

EMERGENCY

119.70 Prior Authorization and Preferred Drug List (PDL)

119.80 Illinois Cares Rx Basic Covered Prescription Drugs

119.90 Co-Payments and Cost Sharing

EMERGENCY

119.100 Pharmacy Payment

119.110 Inspection and Disclosure of Records

119.120 Establishment of Liens

119.130 Penalties

119.140 Penalties (Repealed)

AUTHORITY: Implementing the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25] and implementing and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Executive Order 2004-3.

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 13816, effective October 1, 2004, for a maximum of 150 days; adopted at 29 Ill. Reg. 4069, effective February 25, 2005; emergency amendment at 30 Ill. Reg. 482, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified in response to the Joint Committee on Administrative Rules' Objection at 30 Ill. Reg. 5436, effective February 28, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10274, effective May 26, 2006; amended at 31 Ill. Reg. 5537, effective March 26, 2007; emergency amendment at 32 Ill. Reg. 373, effective

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7717, effective May 5, 2008; emergency amendment at 33 Ill. Reg. 1220, effective January 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 5765, effective May 1, 2009; amended at 34 Ill. Reg. 6788, effective May 1, 2010; emergency amendment at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days.

Section 119.20 Eligibility**EMERGENCY**

- a) Illinois Cares Rx Eligibility Qualifications
To be eligible for Illinois Cares Rx pharmaceutical benefits, an individual must meet all of the following requirements:
 - 1) Be:
 - A) 65 years of age or older; or
 - B) a disabled person.
 - 2) Be domiciled in Illinois at the time of filing an application, and during the coverage period.
 - 3) ~~Be~~Except for individuals choosing Illinois Cares Rx Rebate, be enrolled in a Coordinating Medicare Part D PDP if eligible for Medicare Part D.
 - 4) ~~Apply~~Except for individuals choosing Illinois Cares Rx Rebate, apply for all available subsidies under Medicare Part D. The Department may deem individuals to be compliant with this requirement in cases where the Department's data clearly indicates the individual would not be eligible for any low income subsidy.
 - 5) Have a maximum household income at or below 200% of the Federal Poverty Level (FPL). For 2006 and 2007 applications postmarked on or before December 31, 2008, have a maximum household income as described in subsection (a)(5)(A), (B) or (C). If any income eligibility limit set forth in subsection (a)(5)(A), (B) or (C) is less than 200 percent of the Federal Poverty Level (FPL) for any year, the income eligibility limit for that year for households of that size shall be income equal to or less than 200 percent of FPL.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- A) ~~less than \$21,218 for a household containing one person;~~
 - B) ~~less than \$28,480 for a household containing two persons; or~~
 - C) ~~less than \$35,740 for a household containing three or more persons.~~
- 6) ~~For 2008 applications postmarked on or before December 31, 2009, have a maximum household income as described in subsection (a)(6)(A), (B) or (C). If any income eligibility limit set forth in subsection (a)(6)(A), (B) or (C) is less than 200 percent of the Federal Poverty Level (FPL) for any year, the income eligibility limit for that year for households of that size shall be income equal to or less than 200 percent of FPL.~~
- A) ~~less than \$22,218 for a household containing one person;~~
 - B) ~~less than \$29,480 for a household containing two persons; or~~
 - C) ~~less than \$36,740 for a household containing three or more persons.~~
- 7) ~~For 2009 applications submitted during calendar year 2010, and for applications submitted during subsequent years, have a maximum household income as described in subsection (a)(7)(A), (B) or (C). If any income eligibility limit set forth in subsection (a)(7)(A), (B) or (C) is less than 200 percent of the Federal Poverty Level (FPL) for any year, the income eligibility limit for that year for households of that size shall be income equal to or less than 200 percent of FPL.~~
- A) ~~less than \$27,610 for a household containing one person;~~
 - B) ~~less than \$36,635 for a household containing two persons; or~~
 - C) ~~less than \$45,657 for a household containing three or more persons.~~
- 8) ~~Individuals eligible for SeniorCare on December 31, 2005 will be automatically determined eligible for and enrolled in Illinois Cares Rx~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

~~Plus for coverage year 2006; individuals eligible for Circuit Breaker Pharmaceutical Assistance on December 31, 2005 will be automatically determined eligible for and enrolled in Illinois Cares Rx Basic for coverage year 2006.~~

- b) Illinois Cares Rx Plus Eligibility Qualifications
To be eligible for Illinois Cares Rx Plus pharmaceutical benefits as described in Section 119.60(a), an individual must meet all of the eligibility requirements described in subsection (a) and meet the following requirements:
- 1) Be Medicare-eligible; or
 - 2) Meet the following requirements:
 - A) Be a U.S. citizen or qualify as an eligible non-citizen pursuant to 89 Ill. Adm. Code 120.310; and
 - B) Be 65 years of age or older; and
 - C) ~~Have a maximum household income at or below 200 percent of FPL guidelines published annually by the U.S. Department of Health and Human Services. For applications received after January 1, 2010, this amount shall be adjusted upward to disregard 19.53 percent of household income, an amount equivalent to the 2005 through 2009 Social Security and Supplemental Security Income Cost of Living Adjustments.~~
- c) Proof of Eligibility Qualifications
An applicant must submit proof of his or her eligibility qualifications as described in subsections (a) and (b).
- 1) Examples of proof of date of birth include:
 - A) a baptismal record; or
 - B) a birth certificate; or
 - C) a driver's license; or

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- D) an identification card from the Secretary of State's office; or
 - E) an insurance policy; or
 - F) naturalization papers.
- 2) Examples of proof of disability include:
- A) proof that an applicant is eligible to receive disability benefits under the federal Social Security Act of 1935 (see 42 USC 423); or
 - B) issuance of an Illinois Disabled Person Identification Card stating that an applicant is under a Class 2 disability, as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A]; or
 - C) status of an applicant as a disabled person determined by a physician designated by the Department on Aging using the same standards as used by the Social Security Administration with the costs of any required examination paid by the applicant (see 42 USC 423); or
 - D) receipt by an applicant of Railroad (see 45 USC 231), Civil Service, or Veterans' total disability benefits (see 38 USC 101). (See 320 ILCS 25/3.14.)
- 3) Applicants age 64 and older who are ineligible for Medicare must submit proof of citizenship as set forth in section 6036 of the federal Deficit Reduction Act of 2005. This requirement becomes inapplicable if federal funding for these individuals becomes unavailable.
- d) **Income**
Income shall be based on income for the full calendar year prior to the year the applicant filed an application for pharmaceutical benefits, unless the applicant requests consideration of projected income as described in subsections (d)(1)(A), (B), (C), (D) and (E).
- 1) **Projected Income**

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- A) An applicant may request that projected income for the coverage year be used as current income in determining eligibility at the time an application is filed if projected income for the coverage year will be lower than current income for the coverage year. The application must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department on Aging will allow such a request and use projected income as current income in processing the application if its use will enable an applicant to qualify for this program.
- B) An applicant whose application has been denied for exceeding maximum household income eligibility qualifications may file a Schedule P requesting use of projected income for the coverage year as current income for the coverage year in re-determining eligibility if projected income for the coverage year will be lower than current income for the coverage year. The Schedule must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department on Aging will allow such a request and use projected income as current income in processing the application if its use will enable an applicant to qualify for this program.
- C) A beneficiary whose application has been approved for Illinois Cares Rx Basic may file a Schedule P requesting use of projected income for the coverage year as current income for the coverage year in redetermining the eligibility for Illinois Cares Rx Plus if projected income for the coverage year will be lower than current income for the coverage year. The Schedule must include an itemized listing of current income for the coverage year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department on Aging will allow such a request and use projected income as current income in processing the application if its use will enable a beneficiary to qualify for Illinois Cares Rx Plus.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- D) Amended applications for pharmaceutical assistance benefits must be filed on the appropriate paper forms approved by the Department on Aging prior to the expiration of the coverage year for the coverage year at issue.
- E) A beneficiary may not use projected income for two consecutive years, except in the case of hardship such as death, change in marital status or retirement.
- 2) Countable Income
The earned and unearned income of the applicant and his or her spouse (if the spouse resides with the applicant) shall be counted when determining eligibility.
- 3) Assets shall not be considered.
- ~~4) For applications processed after January 1, 2007, but received on or before December 31, 2007, 6.91 percent of the household income is exempt from consideration in determining eligibility. For 2007 applications, postmarked on or before December 31, 2008, 10.44 percent of the household income is exempt from consideration in determining eligibility. For 2008 applications postmarked on or before December 31, 2009, 12.98 percent of the household income is exempt from consideration in determining eligibility.~~
- 45) Illinois Cares Rx Plus participants shall be exempt from the requirements of 89 Ill. Adm. Code 102.210, Estate Claims, with regard to expenditures made for Illinois Cares Rx benefits.
- e) An individual who is eligible for medical assistance with a spenddown may participate in Illinois Cares Rx, if that individual meets all of the eligibility requirements for participation in the program.
- f) An individual who receives benefits from any of the Medicare Savings programs, the Qualified Medicare Beneficiary (QMB) program, the Specified Low Income Medicare Beneficiary (SLIB) program, or the Qualified Individual (QI) program may participate in Illinois Cares Rx, if that individual meets all of the eligibility requirements for participation in the program.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

g) Application Process

- 1) An application for pharmaceutical assistance benefits under the Act must be filed on the appropriate paper or electronic forms approved by the Department on Aging.
- 2) Individuals shall apply by completing and submitting an application as specified by the Illinois Department on Aging.
- 3) Spouses who live together in the same residence may apply on the same application as long as the application contains both signatures.
- 4) After eligibility is determined by the Illinois Department on Aging, notice of the outcome shall be sent to the applicant.
- 5) An individual enrolled in Illinois Cares Rx shall receive coverage under his or her own name and unique Recipient Identification Number.

h) Enrollment Periods

- 1) Enrollment shall be effective the first of the month no later than the second month after the date when the applicant was determined to be eligible for the program.
- 2) The initial coverage period shall continue from the effective date of the enrollment through the end of the calendar year following the year in which the beneficiary filed the application for Illinois Cares Rx benefits.
- 3) Individuals must reapply annually.
- 4) Subsequent uninterrupted periods of enrollment shall be for 12 months and shall be coincident with the calendar year.

i) Authorization of Illinois Cares Rx

Once an individual has been determined eligible for Illinois Cares Rx, an Illinois Cares Rx identification card shall be sent to the individual, ~~unless the individual elects to participate in the Illinois Cares Rx Rebate Program.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- j) Illinois Cares Rx coverage shall terminate:
- 1) at the end of a participant's coverage period unless the participant reapplies timely and is found to continue to be eligible;
 - 2) when a participant no longer resides in Illinois;
 - 3) when a participant becomes an inmate of a public institution;
 - 4) upon a participant's death;
 - 5) upon discovery that the initial determination of the participant's eligibility was incorrect; or
 - 6) when a participant ~~not enrolled in Illinois Cares Rx Rebate~~ fails to apply for any low income subsidy available under Medicare Part D, except in cases where the Department has deemed the individual to be compliant based on the Department's data.
- k) Appeal Rights
Any applicant or beneficiary aggrieved by action of the Department on Aging under the Act, whether in the denial of an application or amended application may request in writing that the Department on Aging reconsider its action, setting out the facts on which the request is based. The Department on Aging will consider the request and either affirm or modify its action.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days)

Section 119.30 Low Income Subsidy**EMERGENCY**

- a) To be eligible for Illinois Cares Rx, ~~except for Illinois Cares Rx Rebate~~, Medicare-eligible enrollees must apply for all available subsidies under Medicare Part D. The Department may deem individuals to be compliant with this requirement in cases where the Department's data clearly indicate the individual would not be eligible for any low-income subsidy (LIS) as described in 89 Ill. Adm. Code 127.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- b) Eligibility of individuals who do not apply for LIS, except in cases where Department data clearly indicate the individual would not be eligible for any LIS, may be terminated at the end of the month following the month in which written notice of termination was given to the individual.
- c) If the beneficiary provides proof of application for LIS prior to the scheduled termination date, eligibility will not be terminated.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days)

Section 119.50 Assignment and Coordination of Benefits**EMERGENCY**

- a) Acceptance of benefits under Illinois Cares Rx, ~~except for the Illinois Cares Rx Rebate~~, constitutes assignment of benefits from any private plan of assistance, including any insurance plan, public assistance program, or third party for covered prescription drugs under this program.
- b) The Department shall charge or collect payments from any private plan of assistance, including any insurance plan, public assistance program, or third party for any claims assigned by a beneficiary.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days)

Section 119.60 Covered Services**EMERGENCY**

- a) Illinois Cares Rx Plus
 - 1) For an individual enrolled in a Coordinating Medicare Part D Plan, ~~except for an individual who elects to participate in the Illinois Cares Rx Rebate Program~~, coverage under the Illinois Cares Rx Plus Program shall consist of:
 - A) Payment to the individual's Coordinating Medicare Part D PDP for premium and deductible and cost sharing expenses, except for applicable cost sharing and co-payments set forth in Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

119.90 for pharmaceutical products covered by the individual's Medicare Part D PDP.

- B) Payment to a pharmacy for pharmaceutical products excluded by Medicare Part D but covered by the Medical Assistance Program operated pursuant to Article V of the Public Aid Code, subject to applicable cost sharing and co-payments set forth in Section 119.90.
- 2) For an individual not eligible for Medicare Part D, ~~except for an individual who elects to participate in the Illinois Cares Rx Rebate Program,~~ covered services under the Illinois Cares Rx Plus Program shall consist of payment to a pharmacy for pharmaceutical products that are covered by the Medical Assistance Program operated pursuant to Article V of the Public Aid Code, subject to applicable cost sharing and co-payments set forth in Section 119.90.
- 3) For a Medicare-eligible individual who is enrolled in a non-coordinating Medicare Part D PDP ~~and not enrolled in the Illinois Cares Rx Rebate Program,~~ payment of the monthly Part D premium for basic coverage.
- b) Illinois Cares Rx Basic
~~Except~~ ~~for an individual who elects to participate in the Illinois Cares Rx Rebate Program, and except~~ for those products prescribed as described in Section 119.80(k), covered services under the Illinois Cares Rx Basic Program shall consist of payment to a pharmacy for pharmaceutical products that are prescribed as described in Section 119.80, subject to applicable cost sharing and co-payments set forth in Section 119.90.
- c) If a coordinating Medicare Part D PDP has an approved actuarially equivalent benefit design pursuant to section 1860D-2(a)(3)(B) of the Social Security Act, the Department may adjust the threshold at which a beneficiary begins paying 20 percent cost sharing if necessary for the PDP to coordinate administration of the Illinois Cares Rx benefit with the Medicare Part D benefit. The threshold may not be lower than \$1,750.
- d) ~~An individual determined eligible for Illinois Cares Rx who is enrolled in a third-party plan that provides a pharmacy benefit or a Medicare Part D PDP that is not a Coordinating Medicare Part D PDP may choose the Illinois Cares Rx Rebate~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

~~option in lieu of receiving the covered services set forth in subsection (a), (b) or (c) of this Section. An individual enrolled in Illinois Cares Rx Rebate receives his or her benefit in the form of a monetary payment (a monthly payment of \$25) made to the individual. An individual who is enrolled in Medicare Part D and has been determined eligible for the full low income subsidy (LIS) may not choose the Illinois Cares Rx Rebate.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days)

Section 119.90 Co-Payments and Cost Sharing**EMERGENCY**

Unless a federal low-income subsidy results in lesser co-payments and cost sharing, a beneficiary enrolled in Illinois Cares Rx shall be responsible for payment of co-payments and cost sharing as follows:

- a) ~~Except for the cost-sharing described in subsection (c) of this Section, Medicare-eligible beneficiaries shall pay a co-payment equal to the greater of the co-payments required under Medicare Part D for "other low-income subsidy eligible individuals" pursuant to 42 CFR 423.782(b), or \$5 for each prescription of a Tier 1 drug; \$20 for each prescription of a Tier 3 drug; and \$15 for each prescription of a Tier 2 or 4 drug on the Medicare Part D plan's formulary. Beneficiaries shall pay \$5 for each prescription of a generic drug and \$15 for each prescription of a brand name drug when the drug is a Medicare Part D-excluded drug covered by the Department. Beneficiaries not eligible for Medicare shall pay a co-payment of \$5 for each prescription of a generic drug and \$15 for each prescription of a brand name drug when the drug is covered by the Department. The applicable co-payment shall be equal to that required by Medicare Part D for "other low income subsidy eligibles" pursuant to 42 CFR 423.782(b) (in 2006, those co-payments are \$2 for each dispensing of a generic prescription and \$5 for each dispensing of a brand name prescription). For individuals enrolled in Medicare Part D, co-payments are \$15 for each dispensing of a non-preferred drug.~~
- b) Except for cost sharing described in subsection (c), ~~25~~20 percent of the reimbursable amount of the prescription plus the applicable co-payment for each prescription dispensed after the Illinois Cares Rx benefit amount has reached \$1,750 for the calendar year or the beneficiary has reached the Medicare Part D Coverage Gap phase.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- c) Effective January 1, 2007, for individuals enrolled in Medicare Part D who have been identified to the Department as having a diagnosis of HIV or AIDS, the applicable co-payment for drugs that are listed on the ADAP formulary shall be equal to that required by Medicare Part D for "other low income subsidy eligibles" pursuant to 42 CFR 423.782(b). The co-payments described in this subsection are applicable throughout the Plan Year.
- d) For those enrolled in Medicare Part D, the Illinois Cares Rx benefit amount is the total payments made by the PDP to pharmacies on behalf of the beneficiary, whether paid as a part of the Medicare benefit or the Illinois Cares Rx benefit. For those not eligible for Medicare Part D, the Illinois Cares Rx benefit amount is the total payments made by the Department to pharmacies on behalf of the beneficiary.
- e) A beneficiary also must pay to an authorized pharmacy an ancillary charge for any covered prescription drug that is a brand name product if the pharmacy is reimbursed at the generic price as provided in Section 119.100(b)(2) and (3).

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 15163, effective September 1, 2011, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Number:</u> 310.APPENDIX A TABLE S	<u>Peremptory Action:</u> Amendment
--	--
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.Appendix A Table S to reflect two agreements with the Illinois State Employees Association Laborers' International Union of North America Local 2002 VR-704 bargaining unit. The first agreement is for the Public Service Administrator title Option 8L, which is Special License - Law License, at Illinois State Police and signed July 20, 2011. The VR-704-24 pay grade and Pay Plan Code B, negotiated regular pension formula rate for the State of Illinois, is assigned to the Public Service Administrator title Option 8L at Illinois State Police effective March 29, 2011. The other title listed in the agreement, Attorney at the Illinois Emergency Management Agency, is not subject to the Personnel Code [20 ILCS 415].

The Memorandum of Understanding (MOU) is for the Senior Public Service Administrator title Option 7, which is Law Enforcement/Correctional, at the Illinois State Police and signed July 29, 2011. The pay grades assigned to the Senior Public Service Administrator Option 7 at Illinois State Police are designated by function. The VR-704-24 pay grade is assigned to the research and development unit chief function, the VR-704-25 pay grade is assigned to the protected services unit operations commander and senior terrorism advisor functions, the VR-704-26 pay grade is assigned to the assistant director of forensic science training, quality assurance and safety director and section chief functions, and the VR-704-27 pay grade is assigned to the deputy laboratory director function effective September 29, 2010. The only function within the Senior Public Service Administrator Option 7 at Illinois State Police assigned Pay Plan Code Q, which is negotiated alternative pension formula rate for the State of Illinois, is the protected services unit operations commander function. The other functions are assigned to Pay Plan Code B.
- 5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]

- 6) Effective Date: April 29, 2011
- 7) A Complete Description of the Subjects and Issues Involved: In Section 310.Apendix A Table S and the title table, the Illinois State Police is added to the agencies with the Public Service Administrator title Option 8L assigned to pay grade VR-704-24. The VR-704-24 pay grade assigned to the research and development unit chief function, the VR-704-25 pay grade assigned to the protected services unit operations commander and senior terrorism advisor functions, the VR-704-26 pay grade assigned to the assistant director of forensic science training, quality assurance and safety director and section chief functions, and the VR-704-27 pay grade assigned to the deputy laboratory director function within the Senior Public Service Administrator Option 7 at Illinois State Police are added. The Note following the title table is updated.
- The rate table effective September 29, 2010 is added. In the rate table effective January 1, 2011, the VR-704-27 Pay Plan Code B rates are added. The rate table effective June 1, 2011, effective July 1, 2011 and effective January 1, 2012 are added. The VR-704-27 Pay Plan Code B rates effective January 1, 2012 are not included in the rate table effective the same date because the MOU did not specify the rates.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: August 29, 2011
- 10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act?
Yes
- 12) Are there any other proposed amendments pending on this Part? Yes

Section Numbers:

310.47
310.Apendix A Table AA
310.47
310.50

Proposed Action: Ill. Reg. Citation:

Amendment 35 Ill. Reg. 2841; February 18, 2011
Amendment 35 Ill. Reg. 2841; February 18, 2011
Amendment 35 Ill. Reg. 5705; April 8, 2011
Amendment 35 Ill. Reg. 5705; April 8, 2011

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.130	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.410	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.490	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.500	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE A	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE B	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE C	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE D	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE E	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE F	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE G	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE H	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE I	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE J	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE K	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE M	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE N	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE O	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE P	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE Q	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE R	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE S	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE T	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE U	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE V	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE W	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE X	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE Y	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE Z	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE AB	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE AC	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE AD	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX A TABLE AE	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX D	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.APPENDIX G	Amendment	35 Ill. Reg. 5705; April 8, 2011
310.47	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.50	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.130	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.410	Amendment	35 Ill. Reg. 11032; July 15, 2011

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.490	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.500	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.600	New Section	35 Ill. Reg. 11032; July 15, 2011
310.610	New Section	35 Ill. Reg. 11032; July 15, 2011
310.620	New Section	35 Ill. Reg. 11032; July 15, 2011
310.630	New Section	35 Ill. Reg. 11032; July 15, 2011
310.640	New Section	35 Ill. Reg. 11032; July 15, 2011
310.650	New Section	35 Ill. Reg. 11032; July 15, 2011
310.660	New Section	35 Ill. Reg. 11032; July 15, 2011
310.670	New Section	35 Ill. Reg. 11032; July 15, 2011
310.680	New Section	35 Ill. Reg. 11032; July 15, 2011
310.690	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE A	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE B	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE C	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE D	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE E	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE F	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE G	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE H	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE I	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE J	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE K	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE M	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE N	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE O	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE P	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE Q	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE R	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE S	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE T	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE U	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE V	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE W	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE X	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE Y	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE Z	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE AA	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE AB	Amendment	35 Ill. Reg. 11032; July 15, 2011

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.APPENDIX A TABLE AC	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE AD	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX A TABLE AE	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE A	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE C	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE H	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE I	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE J	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE K	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE M	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE N	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE O	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE P	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE R	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE S	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE T	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE V	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE W	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE X	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE Y	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE Z	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE AB	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE AD	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX B TABLE AE	New Section	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX D	Amendment	35 Ill. Reg. 11032; July 15, 2011
310.APPENDIX G	Amendment	35 Ill. Reg. 11032; July 15, 2011

- 13) Statement of Statewide Policy Objectives: The amendment to the Pay Plan affects only the employees subject to the Personnel Code and does not set out any guidelines that affect local or other jurisdictions in the State.
- 14) Information and questions regarding this peremptory amendment shall be directed to:

Mr. Jason Doggett
 Manager
 Compensation Section
 Division of Technical Services and Agency Training and Development
 Bureau of Personnel
 Department of Central Management Services

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

504 William G. Stratton Building
Springfield IL 62706

217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hiring Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes (Repealed)
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.270	Legislated Rate
310.280	Designated Rate
310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses
310.455	Intermittent Merit Increase (Repealed)
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay

310.TABLE A RC-104 (Conservation Police Supervisors, Laborers' – ISEA Local #2002)

310.TABLE B VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' –

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Veterans' Affairs, Natural Resources, Human Services, Historic Preservation Agency and Agriculture Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Public Service Administrators Option 8X Department of Natural Resources, SEIU Local 73)
310.TABLE AE	RC-090 (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Repealed)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- 310.APPENDIX C Medical Administrator Rates (Repealed)
- 310.APPENDIX D Merit Compensation System Salary Schedule
- 310.APPENDIX E Teaching Salary Schedule (Repealed)
- 310.APPENDIX F Physician and Physician Specialist Salary Schedule (Repealed)
- 310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; preemptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; preemptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; preemptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; preemptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; preemptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; preemptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; preemptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; preemptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; preemptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; preemptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; preemptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; preemptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; preemptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; preemptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; preemptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; preemptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; preemptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; preemptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; preemptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; preemptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; preemptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; preemptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; preemptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; preemptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; preemptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; preemptory amendment at 34

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; preemptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; preemptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; preemptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; preemptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; preemptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; preemptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; preemptory amendment at 34 Ill. Reg. 10536, effective July 9, 2010; preemptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; preemptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; preemptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; preemptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; preemptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092, effective January 1, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; preemptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011; emergency amendment at 35 Ill. Reg. 4412, effective February 23, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 4803, effective March 11, 2011; emergency amendment at 35 Ill. Reg. 5633, effective March 15, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 5677, effective March 18, 2011; amended at 35 Ill. Reg. 8419, effective May 23, 2011; amended at 35 Ill. Reg. 11245, effective June 28, 2011; preemptory amendment at 35 Ill. Reg. 12119, effective June 29, 2011; emergency amendment at 35 Ill. Reg. 11657, effective July 1, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 13966, effective July 29, 2011; preemptory amendment at 35 Ill. Reg. 15178, effective August 29, 2011.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE S VR-704 (Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Grade</u>
Clinical Services Supervisor	08260	VR-704	24
Forensic Science Administrator I	15911	VR-704	24
Forensic Science Administrator II	15912	VR-704	25
Juvenile Justice Chief of Security	21965	VR-704	24
Police Lieutenant	32977	VR-704	24
Public Service Administrator, Option 7 (criminal intelligence analyst supervisor, strategic management policy administrator, firearms specialist, computer evidence recovery specialist, and narcotics and currency unit supervisor non-sworn functions at State Police, statewide enforcement function at Financial and Professional Regulation, and superintendent, operations center supervisor and training academy supervisor functions at Corrections)	37015	VR-704	25
Public Service Administrator, Option 7 (inspector sworn and sex offender registry supervisor non-sworn functions at State Police)	37015	VR-704	26
Public Service Administrator, Options 7 (women and family services coordinator, district supervisor, staff assistant and deputy commander of intelligence functions at Corrections and investigator function at Human Services in the Office of the Inspector General), 8L (at Corrections and Illinois State Police) and 8J (dietary manager function at Corrections)	37015	VR-704	24
Senior Public Service Administrator, Option 7 (research and development unit chief function at Illinois State Police)	40070	VR-704	24

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Senior Public Service Administrator, Option 7 (protected services unit operations commander and senior terrorism advisor functions at Illinois State Police)	40070	VR-704	25
Senior Public Service Administrator, Option 7 (assistant director of forensic science training, quality assurance and safety director and section chief functions at Illinois State Police)	40070	VR-704	26
Senior Public Service Administrator, Option 7 (deputy laboratory director function at Illinois State Police)	40070	VR-704	27
Shift Supervisor	40800	VR-704	24

NOTE: The positions allocated to the Public Service Administrator title that are assigned to the negotiated VR-704 pay grade have the following options: 7; 8L and 8J. [The positions allocated to the Senior Public Service Administrator title that are assigned to the negotiated VR-704 pay grade have the option 7.](#) See the definition of option in Section 310.50.

Effective July 1, 2010
Bargaining Unit: VR-704

Pay Grade	Pay Plan Code	S T E P S								
		1a	1	2	3	4	5	6	7	8
24	B	5860	6036	6357	6691	7010	7335	7665	8147	8472
24	Q	6126	6310	6646	6991	7328	7663	8011	8515	8855
24	S	6202	6388	6721	7068	7404	7743	8091	8590	8934
25	B	6246	6434	6785	7143	7500	7856	8214	8740	9091
25	Q	6525	6722	7091	7462	7840	8213	8584	9135	9501
25	S	6609	6801	7170	7540	7915	8288	8659	9213	9582
26	B	6605	6866	7241	7626	8012	8385	8762	9328	9700
26	Q	6917	7196	7587	7989	8393	8785	9177	9772	10162

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Effective September 29, 2010
Bargaining Unit: VR-704

<u>Pay</u> <u>Grade</u>	<u>Pay</u> <u>Plan</u> <u>Code</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>S T E P S</u>			<u>7</u>	<u>8</u>
						<u>4</u>	<u>5</u>	<u>6</u>		
<u>27</u>	<u>B</u>	<u>6979</u>	<u>7329</u>	<u>7728</u>	<u>8136</u>	<u>8548</u>	<u>8948</u>	<u>9350</u>	<u>9954</u>	<u>10353</u>

Effective January 1, 2011
Bargaining Unit: VR-704

<u>Pay</u> <u>Grade</u>	<u>Pay</u> <u>Plan</u> <u>Code</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>S T E P S</u>			<u>7</u>	<u>8</u>
						<u>4</u>	<u>5</u>	<u>6</u>		
24	B	5977	6157	6484	6825	7150	7482	7818	8310	8641
24	Q	6249	6436	6779	7131	7475	7816	8171	8685	9032
24	S	6326	6516	6855	7209	7552	7898	8253	8762	9113
25	B	6371	6563	6921	7286	7650	8013	8378	8915	9273
25	Q	6656	6856	7233	7611	7997	8377	8756	9318	9691
25	S	6741	6937	7313	7691	8073	8454	8832	9397	9774
26	B	6737	7003	7386	7779	8172	8553	8937	9515	9894
26	Q	7055	7340	7739	8149	8561	8961	9361	9967	10365
<u>27</u>	<u>B</u>	<u>6979</u>	<u>7329</u>	<u>7728</u>	<u>8136</u>	<u>8548</u>	<u>8948</u>	<u>9350</u>	<u>9954</u>	<u>10353</u>

Effective June 1, 2011
Bargaining Unit: VR-704

<u>Pay</u> <u>Grade</u>	<u>Pay</u> <u>Plan</u> <u>Code</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>S T E P S</u>			<u>7</u>	<u>8</u>
						<u>4</u>	<u>5</u>	<u>6</u>		
<u>24</u>	<u>B</u>	<u>5977</u>	<u>6157</u>	<u>6484</u>	<u>6825</u>	<u>7150</u>	<u>7482</u>	<u>7818</u>	<u>8310</u>	<u>8641</u>
<u>24</u>	<u>Q</u>	<u>6249</u>	<u>6436</u>	<u>6779</u>	<u>7131</u>	<u>7475</u>	<u>7816</u>	<u>8171</u>	<u>8685</u>	<u>9032</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

<u>24</u>	<u>S</u>	<u>6326</u>	<u>6516</u>	<u>6855</u>	<u>7209</u>	<u>7552</u>	<u>7898</u>	<u>8253</u>	<u>8762</u>	<u>9113</u>
<u>27</u>	<u>B</u>	<u>7119</u>	<u>7476</u>	<u>7883</u>	<u>8299</u>	<u>8719</u>	<u>9127</u>	<u>9537</u>	<u>10153</u>	<u>10560</u>

Effective July 1, 2011
Bargaining Unit: VR-704

<u>Pay Grade</u>	<u>Pay Plan Code</u>	<u>STEPS</u>							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>24</u>	<u>B</u>	<u>6403</u>	<u>6743</u>	<u>7098</u>	<u>7436</u>	<u>7781</u>	<u>8131</u>	<u>8642</u>	<u>8987</u>
<u>24</u>	<u>Q</u>	<u>6693</u>	<u>7050</u>	<u>7416</u>	<u>7774</u>	<u>8129</u>	<u>8498</u>	<u>9032</u>	<u>9393</u>
<u>24</u>	<u>S</u>	<u>6777</u>	<u>7129</u>	<u>7497</u>	<u>7854</u>	<u>8214</u>	<u>8583</u>	<u>9112</u>	<u>9478</u>
<u>25</u>	<u>B</u>	<u>6826</u>	<u>7198</u>	<u>7577</u>	<u>7956</u>	<u>8334</u>	<u>8713</u>	<u>9272</u>	<u>9644</u>
<u>25</u>	<u>Q</u>	<u>7130</u>	<u>7522</u>	<u>7915</u>	<u>8317</u>	<u>8712</u>	<u>9106</u>	<u>9691</u>	<u>10079</u>
<u>25</u>	<u>S</u>	<u>7214</u>	<u>7606</u>	<u>7999</u>	<u>8396</u>	<u>8792</u>	<u>9185</u>	<u>9773</u>	<u>10165</u>
<u>26</u>	<u>B</u>	<u>7283</u>	<u>7681</u>	<u>8090</u>	<u>8499</u>	<u>8895</u>	<u>9294</u>	<u>9896</u>	<u>10290</u>
<u>26</u>	<u>Q</u>	<u>7634</u>	<u>8049</u>	<u>8475</u>	<u>8903</u>	<u>9319</u>	<u>9735</u>	<u>10366</u>	<u>10780</u>
<u>27</u>	<u>B</u>	<u>7775</u>	<u>8198</u>	<u>8631</u>	<u>9068</u>	<u>9492</u>	<u>9918</u>	<u>10559</u>	<u>10982</u>

Effective January 1, 2012
Bargaining Unit: VR-704

<u>Pay Grade</u>	<u>Pay Plan Code</u>	<u>STEPS</u>							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>24</u>	<u>B</u>	<u>6483</u>	<u>6827</u>	<u>7187</u>	<u>7529</u>	<u>7878</u>	<u>8233</u>	<u>8750</u>	<u>9099</u>
<u>24</u>	<u>Q</u>	<u>6777</u>	<u>7138</u>	<u>7509</u>	<u>7871</u>	<u>8231</u>	<u>8604</u>	<u>9145</u>	<u>9510</u>
<u>24</u>	<u>S</u>	<u>6862</u>	<u>7218</u>	<u>7591</u>	<u>7952</u>	<u>8317</u>	<u>8690</u>	<u>9226</u>	<u>9596</u>
<u>25</u>	<u>B</u>	<u>6911</u>	<u>7288</u>	<u>7672</u>	<u>8055</u>	<u>8438</u>	<u>8822</u>	<u>9388</u>	<u>9765</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	<u>25</u>	<u>Q</u>	<u>7219</u>	<u>7616</u>	<u>8014</u>	<u>8421</u>	<u>8821</u>	<u>9220</u>	<u>9812</u>	<u>10205</u>
	<u>25</u>	<u>S</u>	<u>7304</u>	<u>7701</u>	<u>8099</u>	<u>8501</u>	<u>8902</u>	<u>9300</u>	<u>9895</u>	<u>10292</u>
	<u>26</u>	<u>B</u>	<u>7374</u>	<u>7777</u>	<u>8191</u>	<u>8605</u>	<u>9006</u>	<u>9410</u>	<u>10020</u>	<u>10419</u>
	<u>26</u>	<u>Q</u>	<u>7729</u>	<u>8150</u>	<u>8581</u>	<u>9014</u>	<u>9435</u>	<u>9857</u>	<u>10496</u>	<u>10915</u>

(Source: Amended by peremptory rulemaking at 35 Ill. Reg. 15178, effective August 29, 2011)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Register Citation to Notice of Proposed Amendments: 35 Ill. Reg. 12202; July 22, 2011
- 4) Date, Time and Location of Public Hearing:

Monday, September 12, 2011
11:00 AM to 12:30 PM
Prescott Bloom Building, Large Conference Room - 1st Floor
201 South Grand Avenue East
Springfield, Illinois
- 5) Other Pertinent Information: The hearing will be held for the sole purpose of gathering public comments on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the Illinois Department of Healthcare and Family Services will adhere to the following procedures in the conduct of the hearing:
 - a) No oral testimony shall exceed an aggregate of 10 minutes.
 - b) Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.
 - c) No person will be recognized to speak for a second time until all persons wishing to testify have done so.
 - d) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer may impose such other rules of procedures, including the order of call of witnesses, as she/he deems necessary.
 - e) Persons requiring reasonable accommodation due to disability must contact the Bureau of Administrative Rules and Procedures by Wednesday, September 7, 2011.
- 6) Name and address of Agency Contact Person: Questions regarding these proposed amendments or the public hearing shall be directed to:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

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

217/782-1233

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

SCHEDULED MEETING:

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
SEPTEMBER 13, 2011
11:00 A.M.

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

*Email: jcar@ilga.gov
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Agriculture

1. Insect Pest and Plant Disease Act (8 Ill. Adm. Code 240)
 - First Notice Published: 35 Ill. Reg. 7439 – 5/13/11
 - Expiration of Second: 9/18/11
2. General Operations of the State Fairs and Fairgrounds (8 Ill. Adm. Code 270)
 - First Notice Published: 35 Ill. Reg. 4707 – 3/25/11
 - Expiration of Second: 10/8/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

Board of Examiners

3. Certificate of Certified Public Accountant (23 Ill. Adm. Code 1400)
 - First Notice Published: 35 Ill. Reg. 9204 – 6/24/11
 - Expiration of Second: 9/30/11

Board of Higher Education

4. Nursing School Grant Program (23 Ill. Adm. Code 1100)
 - First Notice Published: 35 Ill. Reg. 7038 – 4/29/11
 - Expiration of Second: 9/21/11

Chief Procurement Officer - Transportation

5. Chief Procurement Officer for the Department of Transportation Contract Procurement (44 Ill. Adm. Code 6)
 - First Notice Published: 35 Ill. Reg. 10654 – 7/8/11
 - Expiration of Second: 10/7/11

Commerce Commission

6. Licensure of Retail Electric Agents, Brokers and Consultants (83 Ill. Adm. Code 454)
 - First Notice Published: 35 Ill. Reg. 333 – 1/7/11
 - Expiration of Second: 10/5/11

Education

7. Certification (23 Ill. Adm. Code 25)
 - First Notice Published: 35 Ill. Reg. 8634 – 6/10/11
 - Expiration of Second: 10/1/11
8. Incentive Grants for Agricultural Science Teacher Education (23 Ill. Adm. Code 75)
 - First Notice Published: 35 Ill. Reg. 8714 – 6/10/11
 - Expiration of Second: 10/1/11
9. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 35 Ill. Reg. 8622 – 6/10/11
 - Expiration of Second: 10/1/11
10. Transitional Bilingual Education (23 Ill. Adm. Code 228)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

- First Notice Published: 35 Ill. Reg. 8746 – 6/10/11
- Expiration of Second: 10/1/11

Financial & Professional Regulation

11. Hearings for Removal or Prohibition of Directors, Officers, Employees or Agents of a State Bank or a Branch of an Out-of-State Bank, Subsidiary or Holding Company of a State Bank or a Branch of an Out-of-State Bank, or Corporate Fiduciary, Subsidiary or Parent Company of a Corporate Fiduciary (Repealer) (38 Ill. Adm. Code 900)
 - First Notice Published: 35 Ill. Reg. 10175 – 7/1/11
 - Expiration of Second: 9/30/11
12. Community Association Manager Licensing and Disciplinary Act (68 Ill. Adm. Code 1445)
 - First Notice Published: 35 Ill. Reg. 7258 – 5/6/11
 - Expiration of Second: 9/23/11

Healthcare and Family Services

13. Hospital Services (89 Ill. Adm. Code 148)
 - First Notice Published: 34 Ill. Reg. 15705 – 10/15/10
 - Expiration of Second: 10/12/11

Health Facilities and Services Review Board

14. Narrative and Planning Policies (77 Ill. Adm. Code 1100)
 - First Notice Published: 35 Ill. Reg. 7463 – 5/13/11
 - Expiration of Second: 9/22/11
15. Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)
 - First Notice Published: 35 Ill. Reg. 7474 – 5/13/11
 - Expiration of Second: 9/22/11
16. Long-Term Care (77 Ill. Adm. Code 1125)
 - First Notice Published: 35 Ill. Reg. 7504 – 5/13/11
 - Expiration of Second: 9/17/11

Human Services

17. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

-First Notice Published: 35 Ill. Reg. 6736 – 4/22/11
-Expiration of Second: 10/8/11

18. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
-First Notice Published: 35 Ill. Reg. 6738 – 4/22/11
-Expiration of Second: 10/8/11
19. General Assistance (89 Ill. Adm. Code 114)
-First Notice Published: 35 Ill. Reg. 6740 – 4/22/11
-Expiration of Second: 10/8/11
20. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
-First Notice Published: 35 Ill. Reg. 8273 – 6/3/11
-Expiration of Second: 10/8/11
21. Customer Financial Participation (89 Ill. Adm. Code 562)
-First Notice Published: 34 Ill. Reg. 19362 – 12/17/10
-Expiration of Second: 10/5/11
22. Individualized Plan for Employment (IPE) (89 Ill. Adm. Code 572)
-First Notice Published: 35 Ill. Reg. 711 – 1/14/11
-Expiration of Second: 10/5/11

Insurance

23. Suitability in Annuity Transactions (50 Ill. Adm. Code 3120)
-First Notice Published: 35 Ill. Reg. 4868 – 4/1/11
-Expiration of Second: 10/5/11

Pollution Control Board

24. Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
-First Notice Published: 35 Ill. Reg. 8363 – 6/3/11
-Expiration of Second: 9/21/11
25. Hospital/Medical/Infectious Waste Incinerators (35 Ill. Adm. Code 229)
-First Notice Published: 35 Ill. Reg. 10224 – 7/1/11
-Expiration of Second: 10/7/11

Public Health

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

26. Illinois Vital Records Code (77 Ill. Adm. Code 500)
-First Notice Published: 35 Ill. Reg. 750 – 1/14/11
-Expiration of Second: 10/2/11
27. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
-First Notice Published: 35 Ill. Reg. 7271 – 5/6/11
-Expiration of Second: 9/25/11
28. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
-First Notice Published: 35 Ill. Reg. 7926 – 5/20/11
-Expiration of Second: 10/8/11
29. Child Health Examination Code (77 Ill. Adm. Code 665)
-First Notice Published: 35 Ill. Reg. 8766 – 6/10/11
-Expiration of Second: 9/30/11

Racing Board

30. Starting (11 Ill. Adm. Code 1415)
-First Notice Published: 35 Ill. Reg. 9996 – 6/24/11
-Expiration of Second: 9/23/11

Revenue

31. Electronic Filing of Returns or Other Documents (86 Ill. Adm. Code 760)
-First Notice Published: 35 Ill. Reg. 10292 – 7/1/11
-Expiration of Second: 10/5/11

State Police

32. Forensic Training (20 Ill. Adm. Code 1299)
-First Notice Published: 35 Ill. Reg. 8409 – 6/3/11
-Expiration of Second: 10/17/11

State Toll Highway Authority

33. Office of the Inspector General (2 Ill. Adm. Code 3430)
-First Notice Published: 35 Ill. Reg. 10298 – 7/1/11
-Expiration of Second: 10/5/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

EMERGENCY RULEMAKINGSAging

34. Community Care Program (89 Ill. Adm. Code 240)
-Notice Published: 35 Ill. Reg. 13936 – 8/12/11

Financial and Professional Regulation

35. Medical Practice Act of 1987 (68 Ill. Adm. Code 1285)
-Notice Published: 35 Ill. Reg. 14564 – 8/26/11

Gaming Board

36. Video Gaming (General) (11 Ill. Adm. Code 13949)
-Notice Published: 35 Ill. Reg. 13949 – 8/12/11

PEREMPTORY RULEMAKINGCentral Management Services

37. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 35 Ill. Reg. 13966 – 8/12/11

AGENCY RESPONSESHuman Services

38. Award and Monitoring of Funds (77 Ill. Adm. Code 2030; 35 Ill. Reg. 1327)
39. Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill. Adm. Code 2090; 35 Ill. Reg. 1329)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 23, 2011 through August 29, 2011 and have been scheduled for review by the Committee at its September 13, 2011 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>
10/7/11	<u>Department of Transportation</u> , Chief Procurement Officer for the Department of Transportation Contract Procurement (44 Ill. Adm. Code 6)	7/8/11 35 Ill. Reg. 10654	9/13/11
10/7/11	<u>Pollution Control Board</u> , Hospital/Medical/Infectious Waste Incinerators (35 Ill. Adm. Code 229)	7/1/11 35 Ill. Reg. 10224	9/13/11
10/8/11	<u>Department of Agriculture</u> , General Operations of the State Fairs and Fairgrounds (8 Ill. Adm. Code 270)	3/25/11 35 Ill. Reg. 4707	9/13/11
10/8/11	<u>Department of Public Health</u> , Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)	5/20/11 35 Ill. Reg. 7926	9/13/11
10/8/11	<u>Department of Human Services</u> , General Assistance (89 Ill. Adm. Code 114)	4/22/11 35 Ill. Reg. 6740	9/13/11
10/8/11	<u>Department of Human Services</u> , Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)	6/3/11 35 Ill. Reg. 8273	9/13/11
10/8/11	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	4/22/11 35 Ill. Reg. 6738	9/13/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

10/8/11	<u>Department of Human Services</u> , Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	4/22/11 35 Ill. Reg. 6736	9/13/11
10/12/11	<u>Department of Healthcare and Family Services</u> , Hospital Services (89 Ill. Adm. Code 148)	10/15/10 34 Ill. Reg. 15705	9/13/11

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 37 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

41 - 176	14895
92 - 1001	14916

ADOPTED RULES

89 - 315	9/1/2011	14934
89 - 316	9/1/2011	14942
38 - 345	9/9/2011	14946
38 - 360	9/9/2011	14957
68 - 1175	9/9/2011	14983
68 - 1451	9/9/2011	15044
41 - 230	9/1/2011	15064
35 - 301	8/23/2011	15071
35 - 303	8/23/2011	15078
11 - 1409	9/1/2011	15088
86 - 100	8/24/2011	15092
2 - 3500	8/25/2011	15125
20 - 2000	8/25/2011	15142

EMERGENCY RULES

89 - 119	9/1/2011	15163
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PEREMPTORY RULES

80 - 310	8/29/2011	15178
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