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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
26	June 16, 2014	June 27, 2014
27	June 23, 2014	July 7, 2014
28	June 30, 2014	July 11, 2014
29	July 7, 2014	July 18, 2014
30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Approval of Negotiated Agreements
- 2) Code Citation: 83 Ill. Adm. Code 763
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
763.10	Amend
763.20	Amend
763.30	Amend
763.40	Amend
763.60	Amend
763.110	Amend
763.120	Repeal
763.200	Amend
763.210	Amend
763.230	Amend
763.300	Amend
763.320	Amend
763.330	Amend
763.340	Amend
763.360	Amend
763.370	Amend
763.380	Amend
763.400	Amend
763.410	Amend
763.420	Amend
763.430	Amend
763.440	Repeal
763.460	Amend
763.1040	Amend
763.1050	Amend
763.1060	Amend
763.1100	New
763.1110	New
763.1120	New
763.1130	New
- 4) Statutory Authority: Implementing Section 252 of the Communications Act of 1934 (47 USC 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-

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NOTICE OF PROPOSED AMENDMENTS

101 of the Public Utilities Act [220 ILCS 5/10-101] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101]

- 5) A Complete Description of the Subjects and Issues Involved: The revisions proposed in this rulemaking are intended to streamline the process by which the Illinois Commerce Commission formally approves routine, uncontested negotiated agreements governing rates and terms of interconnection between telecommunications carriers. The rulemaking would have the Commission establish an online filing system that would provide public notice of carriers' negotiated agreements. Under the proposed rules, the Commission or an interested party could initiate a proceeding to contest the filed agreement; if no proceeding to contest the agreement were initiated, the agreement would take effect 30 days after its filing date. The proposed rulemaking would also replace throughout Part 763 references to "hearing examiner" with "administrative law judge," to reflect updated terminology.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 14-0078 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue

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NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
 - C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 763
APPROVAL OF NEGOTIATED AGREEMENTS

SUBPART A: GENERAL PROVISIONS

Section

- 763.10 Procedure Governed
- 763.20 Deviation from this Part
- 763.30 Definitions
- 763.40 Authority of ~~the Administrative Law Judge~~Hearing Examiner
- 763.50 Federal Preemption of State Court Review
- 763.60 Failure to Act

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS
IN CONTESTED PROCEEDINGS

Section

- 763.100 Communications to the Commission
- 763.105 Form of Pleadings and Documents
- 763.110 Filing of Petition for ~~Rejection~~Approval of Negotiated Agreement
- 763.120 Required Disclosures (Repealed)
- 763.130 Contents of Documents
- 763.140 Copies of Documents
- 763.150 Service

SUBPART C: SCHEDULING AND DISCOVERY PROCEDURES

Section

- 763.200 Scheduling Conferences
- 763.210 Failure to Comply with a Discovery Order or a Subpoena
- 763.230 Protective Orders

SUBPART D: INFORMATION GATHERING PROCEDURE

Section

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763.300	Disqualification of Administrative Law Judge <u>Hearing Examiner</u>
763.320	Transcripts
763.330	Consolidation and Severance
763.340	Information to be Adduced
763.350	Information to be Under Oath or Affirmation
763.360	Stipulation of Facts
763.370	Exhibits
763.380	Ex Parte Communications

SUBPART E: PROCEDURE FOLLOWING INFORMATION GATHERING

Section	
763.400	Briefs
763.410	Draft Proposed Decisions
763.420	Administrative Law Judge's <u>Hearing Examiner's</u> Proposed Decision
763.430	Exceptions; Reply
763.440	Filing of Briefs (Repealed)
763.450	Oral Argument
763.460	Additional Hearings
763.470	Reopening on Motion of the Commission

SUBPART F: ELECTRONIC FILING

Section	
763.1000	Overview of Electronic Filing
763.1010	Acceptable Formats
763.1020	e-Docket Accounts
763.1030	Control Processes
763.1040	Submission of Electronic Documents
763.1045	Electronic Documents Accepted by the Commission
763.1050	Service by Electronic Means
763.1060	Electronic Documents and the Hearing Process

SUBPART G: EXPEDITED APPROVAL OF NEGOTIATED AGREEMENTS

<u>Section</u>	
<u>763.1100</u>	<u>Expedited Approval of Negotiated Agreements</u>
<u>763.1110</u>	<u>Negotiated Agreement Filing System Accounts</u>
<u>763.1120</u>	<u>Submission of the Negotiated Agreement for Approval</u>

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NOTICE OF PROPOSED AMENDMENTS

763.1130 Negotiated Agreement Approval Process

AUTHORITY: Implementing section 252 of the Communications Act of 1934 (47 USC 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

SOURCE: Emergency rule adopted at 20 Ill. Reg. 8527, effective June 18, 1996, for a maximum of 150 days; emergency rule suspended at 20 Ill. Reg. 14285, effective November 1, 1996; suspension withdrawn at 21 Ill. Reg. 5660, effective May 2, 1997; adopted at 21 Ill. Reg. 6454, effective May 16, 1997; emergency amendment at 24 Ill. Reg. 7870, effective May 22, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15945, effective October 15, 2000; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 763.10 Procedure Governed

This Part governs practice and procedure before the Illinois Commerce Commission (Commission) in the approval of ~~Negotiated Agreements~~ **Negotiated Agreements** required by ~~section~~ **Sections** 252(e)(1) and ~~252~~ **252**(e)(2)(A) of the Communications Act of 1934 (47 ~~USCU.S.C.~~ **U.S.C.** 252).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.20 Deviation from this Part

To the extent permitted by law, including Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10], any provision of this Part may be waived, suspended or modified by the Commission or an **Administrative Law Judge-Examiner**, either upon their own motion or upon motion by any person.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.30 Definitions

Unless otherwise defined, the following terms as used in this Part shall have the following meanings:

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"Administrative Law Judge" means an employee of the Commission, or a Commissioner, designated by the Commission to conduct proceedings pursuant to section 252(e) of the Communications Act of 1934 (47 USC 252).

"Commissioner" means a member of the Commission.

"Documents" means petitions, amended and supplemental petitions, written discovery, answers to discovery, motions, responses, replies, notices, suggested findings of fact and conclusions of law, exceptions to Administrative Law Judges'~~Hearing Examiners'~~ proposed orders, briefs, drafts or suggested forms of order, and similar writings.

"e-Docket" means a Web based electronic filing system that allows electronic filing, management, and access to electronic records that make up case files.

"Electronic" *includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.* [220 ILCS 5/3-122]

"Electronic document" means a pleading or a document transmitted by electronic means to the Commission with an electronic signature attached.

"Electronic record" *means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.* [5 ILCS 175/5-105]

"Electronic signature" means a signature in electronic form issued by the Commission pursuant to Section 763.1020 and consisting of a user I.D. and password attached to or logically associated with an electronic document.

"E-mail address" *means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.* [815 ILCS 511/5]

~~"Hearing Examiner" means an employee of the Commission, or a Commissioner, designated by the Commission to conduct proceedings pursuant to Section 252(e) of the Communications Act of 1934 (47 USC 252).~~

"Intervenor" means a person who, upon written petition, is permitted to intervene in any proceeding under this Part.

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"Negotiated Agreement" is an agreement, including an amendment to an agreement, negotiated and entered into pursuant to section 252(a) of the Communications Act of 1934 that is subject to Commission approval under section 252(e) of the Communications Act of 1934.

"Negotiated Agreement Filing System" means a Web based electronic filing system that will be used as the initial filing mechanism for all Negotiated Agreements filed for approval of the Illinois Commerce Commission. This system will allow electronic filing, management, and access to the electronic records that make up case files for Negotiated Agreements.

"Party" means any person who enters into a negotiated agreement for which Commission approval is sought under 47 USC 252(e); or, any person allowed by the Commission or an Administrative Law JudgeHearing Examiner to intervene in a proceeding. Staff is not a party but shall have the specific rights and duties of parties as enumerated in this Part.

"Person" means any individual, partnership, corporation, governmental body or unincorporated association.

"Staff" or "Commission Staff" means individuals employed by the Commission. For purposes of this Part, an Administrative Law Judgea Hearing Examiner is not considered a member of the Commission Staff.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.40 Authority of the Administrative Law Judge in Contested ProceedingsHearing Examiner

- a) The Administrative Law JudgeHearing Examiner shall have authority over the conduct of a proceeding under this Part and the responsibility for submission of the matter to the Commission for decision. The Administrative Law JudgeHearing Examiner shall have those duties and powers necessary to these ends, including the following:
- 1) To conduct hearings and pre-hearing conferences;
 - 2) To direct parties to serve testimony and exhibits and establish a date

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certain for service;

- 3) To grant or deny Petitions to Intervene;
 - 4) To conduct discovery of the parties;
 - 5) To supervise all or any part of any discovery procedure;
 - 6) To administer oaths and affirmations;
 - 7) To examine witnesses and to allow the examination of an adverse party or agent;
 - 8) To rule upon all matters ~~that~~which do not result in the final determination of the proceeding;
 - 9) To call upon any party at any stage of the proceeding to produce further information that is material and relevant to any issue;
 - 10) To issue proposed decisions pursuant to Section 763.420 ~~of this Part~~;
 - 11) To issue protective orders in accordance with Section 763.430 ~~of this Part~~; and
 - 12) To ensure that the proceeding is conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings.
- b) Any party who fails to comply with an order of the Administrative Law JudgeHearing Examiner may be limited in its presentation of information during the proceeding.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.60 Failure to Act

Pursuant to section 252(e)(4) of the Communications Act of 1934, the Commission has 90 days after a Negotiated Agreement has obtained a "Filed Date" under Section 763.1130 on the Commission's Negotiated Agreement Filing System to act to approve or reject it.

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Notwithstanding the timelines associated with the automatic approval of uncontested Negotiated Agreements as shown in Subpart G, if the Commission does not act to approve or reject any agreement within 90 days after the Filed Date, the Negotiated Agreement shall be deemed approved. Pursuant to Section 252(e)(4) of the Communications Act of 1934, if the Commission does not act to approve or reject the agreement within 90 days after the submission by the parties of an agreement adopted by negotiation under Section 252(a) of the Communications Act of 1934, the agreement shall be deemed approved.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS
IN CONTESTED PROCEEDINGS

Section 763.110 Filing of Petition for Rejection~~Approval~~ of Negotiated Agreement

- a) Any petition seeking rejection of a Negotiated Agreement shall:
- 1) Be verified;
 - 2) Identify the Negotiated Agreement for which rejection is sought;
 - 3) Identify all parties to the Negotiated Agreement for which rejection is sought;
 - 4) Be accompanied by verified written statements and exhibits to support the petitioner's position that:
 - A) the agreement, or any portion of the agreement, discriminates against a carrier not a party to the Negotiated Agreement; and/or
 - B) implementation of the Negotiated Agreement, or any portion of the agreement, would be inconsistent with the public interest; and
 - 5) Be served on each party to the Negotiated Agreement.
- b) Each party to the Negotiated Agreement shall be deemed a party in a proceeding seeking rejection of the Negotiated Agreement.
- a) All petitions for approval of a negotiated agreement shall be jointly filed by the

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~~parties to the agreement. In addition, all petitions:~~

- ~~1) Shall be verified.~~
- ~~2) Shall be accompanied by the verified written statements and exhibits to support their position that:
 - ~~A) neither the agreement, nor any portion thereof, discriminates against a carrier not a party to the agreement; and~~
 - ~~B) neither implementation of the agreement, nor any portion thereof, would be inconsistent with the public interest.~~~~
- ~~b) A petition for approval of a negotiated agreement shall not be accepted for filing unless it is verified.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.120 Required Disclosures (Repealed)

~~Unless otherwise ordered by the Hearing Examiner or the Commission, parties shall file with the petition for approval of a negotiated agreement, and without awaiting a discovery request:~~

- ~~a) The name, address, facsimile number, e-mail address, and telephone number of each individual likely to have discoverable information relevant to the issues of whether:
 - ~~1) the agreement, or any portion thereof, discriminates against a carrier not a party to the agreement; and~~
 - ~~2) implementation of the agreement, or any portion thereof, would be inconsistent with the public interest.~~~~
- ~~b) A copy of, or a description by category and location of, all documents, data compilations, and written information in the possession, custody, or control of the party that are relevant to the issues of whether:
 - ~~1) the agreement, or any portion thereof, discriminates against a carrier not a party to the agreement; and~~~~

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- 2) ~~implementation of the agreement, or any portion thereof, would be inconsistent with the public interest.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

SUBPART C: SCHEDULING AND DISCOVERY PROCEDURES

Section 763.200 Scheduling Conferences

Upon direction of the Commission or on his or her own motion, the Administrative Law JudgeHearing Examiner may request all parties to attend a scheduling conference. Notice of the conference shall be given in writing, telephone, e-mail, or telephone facsimile not later than 24 hours before the pre-hearing conference. Such a conference may be held for any purpose, including, but not limited to:

- a) Scheduling;
- b) Identification and simplification of issues;
- c) Amendments to documents;
- d) Limitations on the number of witnesses;
- e) The issuance of rulings denying, limiting, conditioning or regulating discovery;
- f) The issuance of rulings supervising all or any part of any discovery procedure; and
- g) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.210 Failure to Comply ~~with~~With a Discovery Order or a Subpoena

If a person or party fails to comply with a discovery order or refuses to attend or be sworn at a hearing, the Administrative Law JudgeHearing Examiner may suspend further proceedings until compliance is obtained, or the Administrative Law JudgeHearing Examiner may strike all or any

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part of the pleadings of thatsueh party, or refuse to allow the party to support designated claims or defenses.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.230 Protective Orders

- a) At any time during the pendency of a proceeding, the Commission or the Administrative Law Judge~~Hearing Examiner~~ may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.
- b) A person submitting a motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, information or studies. The proposed expiration date shall be no more than five years from the date of submission. However, the proposed expiration date may exceed five years upon a showing of good cause. If no date is specified, the proposed expiration date for the proprietary status of the data, information or studies shall be two years from the date of submission.
- c) A document submitted and marked as proprietary shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that document and a ruling on that motion by the Commission or the Administrative Law Judge~~Hearing Examiner~~.
- d) A public redacted version of each document submitted pursuant to this Section must also be submitted with the proprietary version.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART D: INFORMATION GATHERING PROCEDURE

Section 763.300 Disqualification of Administrative Law Judge~~Hearing Examiner~~

- a) An Administrative Law Judge~~A Hearing Examiner~~ assigned to a proceeding may, upon written request to and approval of the Chief Administrative Law Judge~~Hearing Examiner~~, recuse himself or herself from the proceeding.
- b) Whenever any party believes an Administrative Law Judge~~a Hearing Examiner~~

ILLINOIS COMMERCE COMMISSION

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for any reason should be disqualified from conducting, or continuing to conduct, a proceeding assigned to him or her, ~~that~~ party may file a motion to disqualify the ~~Administrative Law JudgeHearing Examiner~~, setting forth by affidavit the alleged grounds for disqualification. The ~~Administrative Law JudgeHearing Examiner~~ shall have 5 days after filing of the motion within which to enter a written ruling thereon. A copy of ~~the~~ ruling shall be served upon all parties.

- c) Any ruling by ~~an Administrative Law Judgea Hearing Examiner~~ denying a request for recusal under this Section may be reviewed by the Commission. Review shall be sought no more ~~than~~ 3 days from the denial of the motion to recuse or disqualify. The party seeking review of the ruling shall file with the Chief Clerk a verified petition, together with any offer of proof, and shall serve a copy of the petition upon the ~~Administrative Law JudgeHearing Examiner~~ and all parties to the proceeding. Other parties and the staff representative may file responses within 3 days after the filing of the petition. The ~~Administrative Law JudgeHearing Examiner~~ shall have 3 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of ~~the~~ report on the parties and staff representatives.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.320 Transcripts

- a) A complete record of all proceedings conducted under this Part, including oral arguments before the Commission or ~~Administrative Law JudgeHearing Examiner~~, shall be transcribed by a reporter appointed by the Commission. In the event that expedited transcripts are required, the cost of preparation shall be borne by Petitioner.
- b) Suggested corrections to the transcript of record must be filed within 7 days from the day on which the hearing is held or at such other time as prescribed by the ~~Administrative Law JudgeHearing Examiner~~, and shall be in writing and served upon each party, the official reporter and the ~~Administrative Law JudgeHearing Examiner~~.
- c) Objections to suggested corrections shall be filed within 5 days after the filing of the suggestions, unless otherwise prescribed by the ~~Administrative Law JudgeHearing Examiner~~. The ~~Administrative Law JudgeHearing Examiner~~ shall determine what changes, if any, shall be made in the record.

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NOTICE OF PROPOSED AMENDMENTS

- d) If no objection is made to the suggested corrections, the Administrative Law JudgeHearing Examiner may, in his or her discretion, direct the corrections to be made and the manner of making them. The purpose of this determination shall be to ensure the accuracy of the record.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.330 Consolidation and Severance

- a) WhenWhere not inconsistent with the requirements of the Communications Act of 1934, the Commission or Administrative Law JudgeHearing Examiner may, to the extent practical, order the consolidation of two or more proceedings under sectionSection 252(b) of the Communications Act of 1934 in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under sectionSection 252 of the Communications Act of 1934.
- b) WhenWhere not inconsistent with the requirements of the Communications Act of 1934, the Commission or Administrative Law JudgeHearing Examiner may, to the extent practical, order the severance of two or more proceedings previously consolidated under subsection (a) of this Section in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under sectionSection 252 of the Communications Act of 1934 or order the severance of issues from a proceeding in those instances in whichwhere the issues need not be decided within the time limit set in the Communications Act of 1934 for the Commission's decision on an agreement adopted by negotiation.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.340 Information to be Adduced

- a) In all proceedings subject to this Part, irrelevant, immaterial or unduly repetitious information shall be excluded. Relevant information may be admitted at the hearing if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs.
- b) Whenever a verified statement or exhibit contains language and/or figures that

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differ from the exhibit offered, the sponsoring party shall indicate all changes in writing either on a corrective sheet or the actual exhibit shall have the corrected language and/or figures so designated.

- c) Any information offered in whatever form shall be subject to appropriate and timely objection. The Administrative Law JudgeHearing Examiner may, either with or without objection, exclude irrelevant, immaterial, unduly repetitious or otherwise inadmissible information.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.360 Stipulation of Facts

The parties and Staff may, by written stipulation filed with the Commission or by oral stipulation entered in the record, agree upon the facts or any part thereof related to the contested issues in the proceeding. Notwithstanding the stipulation of the parties, the Commission or the Administrative Law JudgeHearing Examiner may require further information in support of the facts so stipulated.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.370 Exhibits

- a) All exhibits shall be marked numerically and/or alphabetically with a party designation and shall conform to the requirements of ~~Section 763.120~~ of this Part.
- b) When exhibits are identified for the record, unless the Administrative Law JudgeHearing Examiner directs otherwise, an original and two copies shall be offered at the hearing and a copy provided to the Administrative Law JudgeHearing Examiner and to each party.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.380 Ex Parte Communications

- a) *The provisions of Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60] shall apply in full to Commission proceedings that are subject to this Part. The provisions of Section 10-60 shall not apply, however, to communications between Commission employees who are engaged in*

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investigatory or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60, directly or indirectly, with members of the Commission, any ~~Administrative Law Judge Hearing Examiner~~ in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.

- b) *Any Commissioner, ~~Administrative Law Judge Hearing Examiner~~, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] shall place on the public record of the proceeding:*
- 1) *All such written communications;*
 - 2) *Memoranda stating the substance of all such oral communications; and*
 - 3) *All written responses and memoranda stating the substance of all oral responses to the materials described in subsections (b)(1) and (2). [220 ILCS 5/10-103]*
- c) The material specified in subsection (b) shall be disclosed to the parties of record by:
- 1) Service on the parties at the hearing; or
 - 2) If no hearing is scheduled within the next seven days, service by hand delivery, overnight mail or courier service or telephone facsimile on all parties to the proceeding.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART E: PROCEDURE FOLLOWING INFORMATION GATHERING

Section 763.400 Briefs

- a) The ~~Administrative Law Judge Hearing Examiner~~ or the Commission may order

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the parties to file a brief. If hearings are held, parties must use transcript citations if they refer to testimony or evidence adduced at a hearing. In the discretion of the Commission or the Administrative Law JudgeHearing Examiner, failure to use transcript citations may result in rejection of all or part of the brief.

- b) Briefs shall be concise, and, if in excess of 20 pages, excluding appendices, shall contain:
- 1) A table of contents;
 - 2) A short statement of the case;
 - 3) A summary of the position of the party filing; and
 - 4) Argument.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.410 Draft Proposed Decisions

The Administrative Law JudgeHearing Examiner may permit or require a party or parties to file draft proposed decisions.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.420 Administrative Law Judge'sHearing Examiner's Proposed Decision

In a contested case, the Administrative Law JudgeHearing Examiner presiding shall prepare a proposed decision, including a statement of findings and conclusions and the reasons or basis therefor, on all material issues. TheSuch proposed decision shall be served by the Chief Clerk of the Commission on all parties to the proceeding.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.430 Exceptions; Reply

- a) The parties may file exceptions to the Administrative Law Judge'sHearing Examiner's proposed decision at such time as is fixed by the Administrative Law JudgeHearing Examiner or the Commission. The Administrative Law

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~~JudgeHearing Examiner~~ or the Commission may also require the parties to file as a reply "Brief in Reply to Exceptions."

- b) Exceptions and replies to exceptions with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or a reply is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. Exceptions and replies may contain written arguments in support of the position taken by the party or staff witnesses filing ~~thesueh~~ exceptions or reply.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.440 Filing of Briefs ~~(Repealed)~~

- a) ~~In proceedings subject to this Part that were initiated prior to January 1, 2000, a paper original and eight paper copies of all briefs shall be filed with the Commission.~~
- b) ~~In proceedings subject to this Part that were initiated after January 1, 2000, an original brief shall be filed with the Commission.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 763.460 Additional Hearings

Before issuance of a final order by the Commission, the ~~Administrative Law JudgeHearing Examiner~~ may, on his or her own motion or when directed by the Commission, hold additional hearings.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART F: ELECTRONIC FILING

Section 763.1040 Submission of Electronic Documents

- a) Persons filing electronic documents shall receive a receipt with an identification number that shall be sent electronically. Documents that are required to be verified or that have an affidavit must include the scanned verification or affidavit pages in the filed electronic document in Adobe Acrobat PDF; otherwise

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documents that are required to be verified or that have an affidavit shall be deemed to be officially filed or received only when the person submitting the electronic document submits to the Commission the original verification or affidavit pages accompanied by a printed copy of the electronic receipt for that document.

- b) The filing of an electronic document is effective upon acceptance of the complete document and, if applicable, any required original paper verification or affidavit pages by the Chief Clerk of the Commission in one of the formats specified in Section 763.1010(a). Any required verification or affidavit pages, whether they be in an electronic format or a paper version, must be received and accepted by the Chief Clerk for purposes of meeting filing deadlines, unless otherwise specified by the Commission or the [Administrative Law JudgeHearing Examiner](#).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 763.1050 Service by Electronic Means

- a) Service by electronic means is allowed when agreed to by individual parties. Notwithstanding Section 763.150, any party required to serve a pleading or other document may serve copies of pleadings and other documents on other parties of record by electronic means in substitution of first class mail, provided that the service is on an e-mail address that the recipient has identified in its appearance or in a subsequent filing or agreement. Because of pagination and format concerns, the parties are encouraged to serve in PDF format. When serving by electronic means, service is deemed complete on the day of electronic transmission if transmitted at or before the time due, except service by electronic means on weekends or holidays shall be deemed complete on the next business day unless otherwise specified by the Commission or the [Administrative Law JudgeHearing Examiner](#).
- b) If any party files a proprietary electronic document (see Section 763.230), that party must serve the proprietary electronic document on any other party of record that has the right to see the document on any legal or contractual basis, such as a confidentiality agreement, and a public redacted version pursuant to Section 763.230. The e-Docket system does not allow any person outside of the Commission to see or access proprietary electronic documents.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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Section 763.1060 Electronic Documents and the Hearing Process

If any prefiled testimony or exhibit in the e-Docket system is offered and admitted into evidence without alteration at a hearing in a Negotiated Agreement~~an arbitration~~ proceeding, the official copy is the document found in the e-Docket system. If a prefiled document is submitted without alteration at hearing, any requirement to offer multiple copies at hearing is eliminated. If any prefiled testimony or exhibit in the e-Docket system is altered at hearing in any way and admitted into evidence, the altered testimony or exhibit is the official copy. The sponsoring party must serve the complete altered electronic document on the Commission and the other parties of record within seven days after that hearing or, if applicable, within seven days after the end of a continuous, day-to-day set of hearings, unless otherwise directed by the Administrative Law JudgeHearing Examiner.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART G: EXPEDITED APPROVAL OF NEGOTIATED AGREEMENTS**Section 763.1100 Expedited Approval of Negotiated Agreements**

Notwithstanding the requirements contained in Subparts B through F, all filings seeking Commission approval of a Negotiated Agreement shall be submitted electronically to the Commission's Negotiated Agreement Filing System pursuant to requirements set forth in this Subpart.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 763.1110 Negotiated Agreement Filing System Accounts

- a) Any party seeking to submit a Negotiated Agreement to the Commission's Negotiated Agreement Filing System must obtain an on-line account with the Commission.
- b) The Commission's Chief Clerk shall publish on its website information required by the Commission to register for and maintain an on-line account to access the Commission's Negotiated Agreement Filing System. This information shall include the website address for the Commission's Negotiated Agreement Filing System.

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(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 763.1120 Submission of the Negotiated Agreement for Approval

- a) One or more parties to the Negotiated Agreement, in seeking approval of a Negotiated Agreement, shall submit a complete and executed electronic copy of the Negotiated Agreement and an electronic transmittal letter that meets all filing requirements of the Commission's Negotiated Agreement Filing System.
- b) All documents submitted to the Commission's Negotiated Agreement Filing System shall be in PDF electronic format.
- c) Upon successful completion of a submission to the Commission's Negotiated Agreement Filing System, a tracking number will be provided electronically to the submitting party.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 763.1130 Negotiated Agreement Approval Process

- a) A Negotiated Agreement meeting the requirements of Section 763.1120 shall be deemed filed on the third business day after it is electronically entered in the Commission's Negotiated Agreement Filing System ("Filed Date"), and shall be displayed on a public page of the Commission website with the Filed Date.
- b) If no Verified Petition contesting approval is timely filed pursuant to subsection (c), or if the Commission does not on its own motion initiate a proceeding for the purposes of determining approval, a Negotiated Agreement filed with the Commission shall, with no further Commission action, be approved pursuant to this Part 30 days after the Filed Date. The Negotiated Agreement shall thereafter be displayed as approved on the Commission's website.
- c) An interested party may, within 14 business days after the Filed Date, initiate a docketed proceeding by filing a Verified Petition seeking rejection of the Negotiated Agreement pursuant to the requirements of Section 763.110. Upon the timely filing of a Verified Petition pursuant to Section 763.110, or upon initiation by the Commission on its own motion of a docketed proceeding for the purposes of determining approval, the Commission's website will note that the Negotiated Agreement is the subject of a contested proceeding and indicate the appropriate docket number. When a docketed proceeding is established, the procedures of this

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Subpart will be suspended and the procedures of Subparts B through F of this Part shall apply to the docketed proceeding. Any party to the Negotiated Agreement shall have the right to pursue approval of the Negotiated Agreement in any such docketed proceeding. In a docketed proceeding, the parties to the Negotiated Agreement retain the burden of proof.

- d) If the party or parties seeking approval of a Negotiated Agreement choose to withdraw the agreement, they shall, prior to 30 days after the Filed Date, submit an electronic transmittal letter that meets all filing requirements of the Commission's Negotiated Agreement Filing System stating that they are withdrawing the request for approval of the Negotiated Agreement. The Commission's website will note that the Negotiated Agreement has been withdrawn.

(Source: Added at 38 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Illinois Controlled Substances Act

2) Code Citation: 77 Ill. Adm. Code 3100

3) Section Numbers: Proposed Action:

3100.10	Amend
3100.20	Repeal
3100.40	Repeal
3100.50	Amend
3100.60	Amend
3100.70	Repeal
3100.80	Amend
3100.85	Amend
3100.90	Repeal
3100.100	Repeal
3100.110	Repeal
3100.120	Repeal
3100.130	Repeal
3100.140	Repeal
3100.150	Repeal
3100.160	Repeal
3100.170	Repeal
3100.180	Repeal
3100.190	Repeal
3100.200	Amend
3100.210	Repeal
3100.220	Repeal
3100.230	Repeal
3100.240	Repeal
3100.250	Repeal
3100.260	Repeal
3100.270	Repeal
3100.280	Amend
3100.290	Amend
3100.300	Amend
3100.310	Amend
3100.320	Amend
3100.330	Amend
3100.340	Amend

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3100.350	Amend
3100.360	Amend
3100.370	Amend
3100.380	Amend
3100.390	Amend
3100.400	Amend
3100.410	Amend
3100.420	Amend
3100.430	Amend
3100.440	Amend
3100.450	Amend
3100.460	Amend
3100.470	Repeal
3100.480	Amend
3100.490	Repeal
3100.500	Amend
3100.510	Amend
3100.520	Amend
3100.530	Amend

- 4) Statutory Authority: Implementing and authorized by the Illinois Controlled Substances Act [720 ILCS 570]
- 5) A Complete Description of the Subjects and Issues Involved: This Part has not been substantially revised in more than 25 years. There have been numerous amendments to the Controlled Substances Act that have never been addressed in that time. PA 97-334 contains the most recent statutory changes to the Act which these amendments implement. The proposed rulemaking's intent is conformance of this Part to the Act and to federal law. Included in these revisions is the repeal of numerous provisions relating to administrative and disciplinary functions that are provided for by other Department Rules or policies and are no longer pertinent. It adds definitions and the enhancement of Department regulatory oversight of the purchase, sale, and storage of controlled substances. It also includes a prohibition on practitioner self-prescribing of controlled substances, as well as a general clean up of the Part.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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

Interested persons may submit written comments 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

All written comments received within 45 days after this issue of the Illinois Register will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those licensed healthcare professionals referenced in the Illinois Controlled Substances Act may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Please see the new and revised requirements that follow in the proposed amendments to this Part.

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- C) Types of professional skills necessary for compliance: Skills required for licensure of licensed healthcare professionals would be necessary for compliance.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

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TITLE 77: PUBLIC HEALTH

CHAPTER XV: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION

PART 3100

ILLINOIS CONTROLLED SUBSTANCES ACT

Section

3100.10	Definitions
3100.20	Copies of This Part (Repealed)
3100.30	Renewal Periods and Fees
3100.40	Time and Method of Payment (Repealed)
3100.50	Separate LicensureRegistration for Independent Activities
3100.60	Exempted Locations
3100.70	Requirements of Registration (Repealed)
3100.80	Exemption of Agents and Employees: Affiliated Practitioners
3100.85	Application for Mid-Level Practitioner Controlled Substances License
3100.90	Time for Application for Registration: Expiration Date (Repealed)
3100.100	Application Forms (Repealed)
3100.110	Filing of Application: Joint Filings (Repealed)
3100.120	Acceptance for Filing: Defective Applications (Repealed)
3100.130	Additional Information (Repealed)
3100.140	Amendments to and Withdrawal of Applications (Repealed)
3100.150	Certificate of Registration: Denial of Registration (Repealed)
3100.160	Suspension or Revocation of Registration (Repealed)
3100.170	Suspension of Registration Pending Final Order (Repealed)
3100.180	Extension of Registration (Repealed)
3100.190	Hearing Officer (Repealed)
3100.200	Hearings and Notices
3100.210	Procedures for Hearing (Repealed)
3100.220	Hearing – Pursuant to Paragraph 1305(b) (Repealed)
3100.230	Default Disposition of a Contested Case (Repealed)
3100.240	Recording of Testimony (Repealed)
3100.250	Recording of Hearing (Repealed)
3100.260	Rehearing (Repealed)
3100.270	Final Decisions and Orders (Repealed)
3100.280	Modification in LicensureRegistration
3100.290	Termination of LicenseRegistration
3100.300	Transfer of LicenseRegistration
3100.310	Security Requirements Generally

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- 3100.320 Factors in Evaluating Physical Security Systems
 3100.330 Physical Security Controls for Non-Practitioners
 3100.340 Physical Security Controls for Practitioners
 3100.350 Other Security Controls for Practitioners
 3100.360 Record and Inventorying Requirements Generally
 3100.370 Persons Entitled to Issue Prescriptions
 3100.380 Purpose of ~~Issuance~~~~Issue~~ of a Prescription
 3100.390 Manner of Issuance of Prescription
 3100.400 Requirement of Prescription for Schedule II Controlled Substances
 3100.410 Refilling of Prescription
 3100.420 Partial Filling of Prescriptions
 3100.430 Prescriptions from Out-of-State Practitioners and Exempt Federal Practitioners
 3100.440 Authority to Make Inspections
 3100.450 Inspections
 3100.460 Failure to Comply with Rules
 3100.470 Address for Notices (Repealed)
 3100.480 Granting Variances~~Suspension or Modification of Rules and Regulations~~
 3100.490 Construction of Rules and Regulations (Repealed)
 3100.500 Ordering Controlled Substances~~Written Order~~
 3100.510 Paragraph 1312(d)-Record Keeping
 3100.520 Emergency Medication Kits
 3100.530 Transfer Between Pharmacies of Prescription Information for Refill Purposes

AUTHORITY: Implementing and authorized by the Illinois Controlled Substances Act [720 ILCS 570].

SOURCE: Rules and Regulations promulgated for the Administration of the Illinois Controlled Substances Act, effective October 22, 1975; amended at 3 Ill. Reg. 38, p. 277, effective September 20, 1979; amended at 4 Ill. Reg. 46, p. 1297, effective November 5, 1980; amended at 5 Ill. Reg. 3528, effective March 25, 1981; amended at 5 Ill. Reg. 8693, effective August 12, 1981; amended at 6 Ill. Reg. 10015, effective August 5, 1982; codified at 8 Ill. Reg. 543; amended at 8 Ill. Reg. 2498, effective February 9, 1984; amended at 8 Ill. Reg. 16344, effective August 23, 1984; amended at 11 Ill. Reg. 18246, effective October 27, 1987; transferred from Chapter VII, 77 Ill. Adm. Code 1650 (Department of Registration and Education) to Chapter XV, 77 Ill. Adm. Code 3100 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2922; amended at 20 Ill. Reg. 9063, effective July 1, 1996; amended at 24 Ill. Reg. 16672, effective October 27, 2000; emergency amendment at 28 Ill. Reg. 4985, effective March 5, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9633, effective June 28, 2004; amended at 38 Ill. Reg. _____, effective _____.

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Section 3100.10 Definitions

- a) ~~Authority: This Part is made and issued by the Department of Professional Regulation pursuant to the Illinois Controlled Substances Act [720 ILCS 570], which empowers the Department to promulgate rules relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this State.~~ b) Definitions: The following terms shall be defined as follows:

"Act" means the Illinois Controlled Substances Act [720 ILCS 570].

"Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

"Address of Record" means the designated address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

~~"Basic Class" is defined as set forth in Title 21, Chap. II, Sec. 1301.02 of the Federal Regulations relating to Food and Drugs (21 CFR 1301.02).~~

"DEA Registration Controlled Substances Code Number" means the number assigned to controlled substances and controlled drug preparations by the Drug Enforcement Administration of the Department of Justice as defined by 21 CFR 1308.03.

"Department" means the Department of Financial and Professional Regulation ~~of the State of Illinois.~~

"Director" means the Director of the Division ~~Department~~ of Professional Regulation with the authority delegated by the Secretary of the State of Illinois.

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

~~"Hearing Officer" means either the Director or any person he/she appoints pursuant to Section 3100.190 of this Part. Such person shall have full~~

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~~power to receive evidence, decide evidentiary questions, issue subpoenas and otherwise conduct a hearing.~~

"Individual Practitioner" means a physician, dentist, veterinarian, podiatrist or ~~therapeutically certified~~ optometrist licensed in the State of Illinois to practice his/her profession, a licensed physician assistant with prescriptive authority who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 of the Act and ~~the~~ written supervision agreement guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987 [225 ILCS 95], or a licensed advanced practice nurse with prescriptive authority, in accordance with Section 303.05 of the Act and a written collaborative agreement as provided in Section under Sections 65-4015-15 and 15-20 of the Nurse Nursing and Advanced Practice Nursing Act [225 ILCS 65] ~~except as provided in Section 3100.80(c).~~

~~"Institutional Practitioner" means a hospital or other party (other than an individual) licensed, registered or otherwise permitted by the State of Illinois to dispense a controlled substance in the course of professional practice but does not include a pharmacy.~~

"Mid-level Practitioner" means:

a physician assistant who has been delegated authority to prescribe through a written delegation of authority by a physician licensed to practice medicine in all of its branches, in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987;

an advanced practice nurse who has been delegated authority to prescribe through a written delegation of authority by a physician licensed to practice medicine in all of its branches or by a podiatrist, in accordance with Section 65-40 of the Nurse Practice Act; or

an animal euthanasia agency.

"Mid-Level Practitioner Controlled Substances License" is a license issued to a mid-level practitioner licensed physician assistant or licensed advanced practice nurse authorized to prescribe by a physician in

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~~accordance with the professional licensure Act of the profession or a euthanasia agency.~~

~~"Pre-printed Prescription" means a written prescription upon which the designated drug has been indicated prior to the time of issuance, including any pre-inked stamp that would be applied to a prescription blank. The term does not mean a written prescription that is individually generated by machine or computer in the prescriber's place of business.~~

~~"Registrant" means a person or party registered or licensed under or holding a certificate of registration or license pursuant to the Act.~~

~~"Rules" means this Part.~~

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

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.20 Copies of This Part (Repealed)

~~Copies of this Part will be furnished upon request directed to the Department of Registration and Education.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.40 Time and Method of Payment (Repealed)

~~Registration and renewal fees shall be paid at the time when the application for registration or renewal is submitted for filing. Payment should be made in the form of a certified or cashier's check or money order made payable to the Department of Registration and Education. Payments made in the form of stamps, foreign currency or third party endorsed checks will not be accepted.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.50 Separate LicensureRegistration for Independent Activities

- a) The following groups of activities are deemed to be independent of each other:

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- 1) Manufacturing controlled substances;
 - 2) Distributing controlled substances;
 - 3) Dispensing controlled substances listed in Schedules II through V;
 - 4) Conducting instructional activities with controlled substances listed in Schedules II through V;
 - 5) Conducting instructional activities with controlled substances listed in Schedule I;
 - 6) Conducting chemical analysis with controlled substances listed in any Schedule.
- b) Every person who engages in more than one group of independent activities shall obtain a separate ~~license~~~~registration~~ for each group of activities, except as provided in this subsection. Any person, when ~~licensed~~~~registered~~ to engage in the group of activities described in ~~subsections (b)(1) through (6)~~~~each paragraph in this subsection~~, shall be authorized to engage in the coincident activities described in ~~the specific subsection~~~~that paragraph~~ without obtaining a registration to engage in ~~thosesueh~~ coincident activities, provided that, unless specifically exempted, he ~~or she~~ complies with all requirements and duties prescribed by law for persons ~~licensed~~~~registered~~ to engage in ~~thosesueh~~ coincident activities:
- 1) A person ~~licensed~~~~registered~~ to manufacture any controlled substance ~~or basic class of controlled substance~~ shall be authorized to distribute that substance ~~or class~~, but no other substances or class ~~that~~~~which~~ he ~~or she~~ is not ~~licensed~~~~registered~~ to manufacture;
 - 2) A person ~~licensed~~~~registered~~ to manufacture any controlled substance listed in Schedules II through V shall be authorized to conduct chemical analysis and pre-clinical research (including quality control analysis) with narcotic and non-narcotic controlled substances listed in those Schedules in which he ~~or she~~ is authorized to manufacture;
 - 3) A person authorized by the appropriate agencies of the State of Illinois and the federal government to conduct research with a ~~basic class of~~ controlled substance ~~listed in Schedule I~~ shall be authorized to manufacture ~~that~~

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~~substancesuch class~~ if and to the extent that ~~thesueh~~ manufacture is set forth in the research protocol filed with the application ~~for registration~~ and to distribute ~~that substancesuch class~~ to other persons authorized to conduct research with ~~that substancesuch class~~ or to conduct chemical analysis;

- 4) A person ~~licensedregistered~~ to conduct chemical analysis with controlled substances shall be authorized:
 - A) to manufacture and import ~~thosesueh~~ substances for analytical purposes, and distribute ~~thosesueh~~ substances to persons ~~licensedregistered~~ or authorized to conduct chemical analysis, instructional activities or research with ~~thosesueh~~ substances or ~~persons who are~~ exempted from ~~licensureregistration~~ pursuant to law; and,
 - B) to export ~~thosesueh~~ substances to persons in other countries performing chemical analysis or enforcing laws relating to controlled substances or drugs in those countries; ~~and~~
- 5) A person authorized by the appropriate agencies of the State of Illinois or the federal government to conduct research with controlled substances listed in Schedules II through V shall be authorized to conduct chemical analysis with controlled substances listed in those Schedules in which he ~~or she~~ is authorized to conduct research, to manufacture ~~thosesueh~~ substances if and to the extent that ~~thesueh~~ manufacture is authorized by the appropriate agency, and to distribute ~~thosesueh~~ substances to other persons ~~licensedregistered~~ or authorized to conduct chemical analysis; or research with ~~thosesueh~~ substances and to persons exempted from ~~licensureregistration~~ pursuant to law;
- 6) A person ~~licensedregistered~~ to dispense controlled substances in Schedules II through V shall be authorized to conduct instructional activities with those substances.
- c) A single ~~license~~~~registration~~ to engage in any group of independent activities may include one or more controlled substances listed in the Schedules authorized in that group of independent activities.

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(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.60 Exempted Locations

~~An office used by agents of a licensee where sales of controlled substances are solicited, made or supervised but that neither contains controlled substances (other than substances for display purposes or lawful distribution as samples only) nor serves as a distribution point for filling sales orders is exempt from licensure. The following locations shall be deemed not to be places where controlled substances are manufactured, distributed or dispensed:~~

- ~~a) A warehouse where controlled substances are stored by or on behalf of a registered person, unless such substances are distributed directly from such warehouse to registered locations other than the registered location from which the substances were delivered or to persons not required to register by virtue of Paragraph 1302(c)(2) of the Act.~~
- ~~b) An office used by agents of a registrant where sales of controlled substances are solicited, made or supervised but which neither contains such substances (other than substances for display purposes or lawful distribution as samples only) nor serves as a distribution point for filling sales orders.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.70 Requirements of Registration (Repealed)

~~Persons Required to Register. Every person who manufactures, distributes, dispenses or prescribes any controlled substance or who proposes to engage in the manufacture, distribution, dispensing or prescribing of any controlled substance shall obtain a registration unless exempted by law. Only persons actually engaged in such activities are required to obtain registration; related or affiliated persons who are not engaged in such activities are not required to be registered. (For example, a stockholder of a parent corporation or a corporation manufacturing controlled substances is not required to obtain a registration.)~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.80 Exemption of Agents and Employees: Affiliated Practitioners

- a) The requirement of ~~licensureregistration~~ is waived for any agent or employee of a person who is ~~licensedregistered~~ to engage in any group of independent activities,

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if ~~the such~~ agent or employee is acting in the usual course of his or her business or employment.

- b) An individual practitioner who is an agent or employee of another practitioner ~~licensed~~registered to dispense controlled substances may, when acting in the usual course of his or her employment, administer and dispense (other than by issuance of a prescription) controlled substances if and to the extent that ~~the such~~ individual practitioner is authorized or permitted to do so by the employer or principal practitioner jurisdiction in which he practices, under the ~~license~~registration of the employer or principal practitioner, in lieu of being ~~licensed~~registered himself or herself.
- c) In a licensed hospital, hospital affiliate, or licensed ambulatory surgical treatment center ("institution") a licensed advanced practice nurse, acting pursuant to Section 65-45 of the Nurse Practice Act, or a physician assistant, acting pursuant to Section 7.7 of the Physician Assistant Practice Act of 1987, may be granted clinical privileges, including the authority to select, order and administer controlled substances under the DEA registration number of the hospital, hospital affiliate or licensed ambulatory surgical treatment center by whom he or she is employed.
- d)e) In a licensed hospital or affiliated training facility ("institution"), a holder of a Temporary License Certificate of Registration, pursuant to Section 17-1a of the Medical Practice Act [(225 ILCS 60/17)]Ill. Rev. Stat. 1981, ch. 111, par. 4422), may dispense, administer, order and prescribe controlled substances under the DEA registration number of the hospital or affiliated training facility~~other institution which is registered and~~ by whom he or she is employed, ~~provided that:~~
- e) The exemptions provided for advanced practice nurses, physician assistants, and temporary license holders in subsections (c) and (d) are subject to the following conditions:
- 1) The ~~Such~~ dispensing, administering or prescribing is done in the usual course of his or her professional practice or training program ~~at such hospital or institution;~~
 - 2) The institution by whom he or she is employed has verified that the individual practitioner is licensed to dispense, administer or prescribe drugs by the Division;

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- 3) The advanced practice nurse, physician assistant or temporary license holder is acting only within the scope of his or her employment;
- 2) ~~The hospital or other institution by whom he is employed has determined that such temporary certificate holder is so permitted to dispense or prescribe drugs by the state wherein he resides and holds a license to practice medicine in all its branches;~~
- 4)3) The ~~hospital or other~~ institution authorizes the temporary license holder, advanced practice nurse or physician assistant~~authorized such temporary certificate holder~~ to administer, dispense, order or prescribe under the ~~institution's hospital~~ registration and designates a specific internal code number for each temporary license holder, advanced practice nurse or physician assistant~~such temporary certificate holder~~ so authorized. The code number shall consist of numbers, letters, or a combination of numbers and letters thereof and shall be a suffix to the institution's ~~Drug Enforcement Administration (DEA)~~ registration number, preceded by a hyphen (e.g., APO 123456-10 or APO 123456-A12); ~~and~~
- 5)4) A current list of internal codes and the corresponding temporary license holder, advanced practice nurse or physician assistant~~temporary certificate holder~~ is kept by the ~~hospital or other~~ institution and is made available at all times to other ~~licensees registrants~~ and law enforcement agencies upon request for the purpose of verifying the authority of the temporary license holder, advanced practice nurse or physician assistant; ~~and prescribing temporary certificate holder.~~
- 6) A temporary license holder, advanced practice nurse or physician assistant shall include on all prescriptions issued by him or her the registration number of the institution, his or her specific internal code number, and his or her name.
- f) An official exempted from registration under statute shall include on all prescriptions issued by him or her, his or her branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and his or her service identification number, in lieu of the registration number of the practitioner required by this Part. The service identification number for a Public Health Service practitioner is his or

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her social security identification number. Each prescription shall have the name of the officer stamped or printed on it, as well as the signature of the officer.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.85 Application for Mid-Level Practitioner Controlled Substances License

- a) An individual applicant for a mid-level practitioner controlled substances license shall file an application on forms provided by the Department. The application shall include:
- 1) The physician assistant or advanced practice nurse license number. The license shall be active and in good standing;
 - 2) The license number and controlled substances license number of the delegating or collaborating physician or collaborating podiatrist;
 - 3) A delegation of controlled substances in Schedules III through V or any specific controlled substance in Schedule II shall be electronically input under rules set forth for the Prescription Monitoring Program under the Department of Human Services. A printout of the inputted delegation may serve as written notice of delegation of prescriptive authority if it is signed by the physician or podiatrist and indicating the schedule of controlled substances or the specific Schedule II controlled substances that the mid-level practitioner may dispense or prescribe is listed. A separate notice of prescriptive authority shall be submitted by each supervising or collaborating physician or collaborating podiatrist; and
 - 4) The required fee.
- b) For physician assistant or advanced practice nurse controlled substance licenses issued on or after August 11, 2011 authorizing the prescribing and dispensing of Schedule II controlled substances, applicants must meet education requirements in accordance with Section 303.05 of the Act.
- c) Any advanced practice nurse or physician assistant who writes a prescription for a controlled substance without having valid prescriptive authority may be fined by the Department not more than \$50 per prescription, and the Department may take any other disciplinary action provided for in the Act.

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- d) Nothing in this Section shall be construed to prohibit generic substitutions as provided in Section 25 of the Pharmacy Practice Act [225 ILCS 85/25].
- e) Pursuant to the Humane Euthanasia in Animal Shelters Act rules (68 Ill. Adm. Code 1248), a euthanasia agency applicant for a mid-level practitioner controlled substances license shall file an application on forms provided by the Department. The application shall include:
- 1) The euthanasia agency license number. The license shall be active and in good standing;
 - 2) The required fee as stated in Section 3100.30.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.90 Time for Application for Registration: Expiration Date (Repealed)

- a) ~~Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Director to such person.~~
- b) ~~A registered person who fails to file for renewal before the expiration date of his registration must apply for a new registration; his existing registration will expire on the date specified.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.100 Application Forms (Repealed)

- a) ~~Forms for registration may be obtained by writing to the Department of Registration and Education, 320 West Washington Street, Springfield, Illinois 62786. Forms will be mailed, as applicable, to each registered person approximately 60 days before the expiration date of his registration; if any registered person does not receive such forms within 45 days before the expiration date of his registration, he must promptly give notice of such fact and request such forms by writing to the Department and the foregoing address.~~

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- b) ~~Each application for registration to handle any basic class of controlled substance listed in Schedule I (except to conduct chemical analysis with such classes), and each application for registration to manufacture a basic class of controlled substance listed in Schedule II, shall include the Controlled Substance Code Number, as defined in Section 1650.10, for each basic class or substance to be covered by such registration.~~
- e) ~~Each application shall include all information called for in the form, unless the item is not applicable, in which case this fact shall be indicated.~~
- d) ~~Each application, attachment or other document filed as part of an application, shall be signed by the applicant, if an individual; by a partner of the applicant, if a partnership; or by an officer of the applicant, if a corporation, corporate division, association, trust or other entity.~~
- e) ~~An applicant may authorize one or more individuals to sign applications for the applicant by filing a power of attorney on a form to be designated by the Department for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications and shall contain the signature of the individual being authorized to sign applications. The power of attorney shall be valid until revoked by the applicant.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.110 Filing of Application: Joint Filings (Repealed)

- a) ~~All applications for registration shall be submitted for filing to the Department. The appropriate registration fee and any required attachments must accompany the application.~~
- b) ~~Any person required to obtain more than one registration may submit all applications in one package. Each application must be complete and should not refer to any accompanying application for required information.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.120 Acceptance for Filing: Defective Applications (Repealed)

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- a) ~~Applications submitted for filing shall be stamped by the Department showing date of receipt. If found to be complete, the application will be accepted for filing. Applications failing to comply with the requirements of this Part generally will not be accepted for filing. In the case of minor defects as to completeness, the Department may accept the application for filing with a request to the applicant for additional information. A defective application will be returned to the applicant within 30 days following its receipt with a statement of the reason for not accepting the application for filing. A defective application may be corrected and resubmitted for filing at any time; the Department shall accept for filing any application upon resubmission by the applicant, whether complete or not.~~
- b) ~~Accepting an application for filing does not preclude any subsequent request for additional information pursuant to Section 1650.130 and has no bearing on whether the application will be granted.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.130 Additional Information (Repealed)

~~The Department may require an applicant to submit such documents or written statements of fact relevant to the application as it deems necessary to determine whether the application should be granted. The failure of an applicant to provide such documents or statements within 30 days after being requested to do so, without good cause shown for failure to answer within said time, or without a request for extension of time, shall be deemed to be a waiver by the applicant of any opportunity to present such documents or facts for consideration by the Department in granting or denying the application.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.140 Amendments to and Withdrawal of Applications (Repealed)

- a) ~~An application may be amended or withdrawn by the applicant without permission of the Department at any time before the date on which the applicant received a notice of hearing or denial of application pursuant to this Part. An application may be amended or withdrawn with permission of the Department at any time where good cause is shown by the applicant.~~
- b) ~~After an application has been accepted for filing, the request by the applicant that~~

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~~it be returned shall be deemed to be a withdrawal of the application.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.150 Certificate of Registration: Denial of Registration (Repealed)

- a) ~~The Department shall issue a certificate of registration to an applicant if the issuance of registration or renewal is proper under the applicable provisions of Paragraph 1303 of the Act. In the event that the issuance of registration or renewal is not proper, the Department shall deny the application. Before denying any application, the Department shall issue a notice of hearing to determine why registration should not be denied pursuant to Paragraph 1305(a) of the Act.~~
- b) ~~The certificate of registration shall contain the name, address and registration number of the registrant, the activity authorized by the registration, the Schedules (as set forth in Article II of the Act) of the controlled substances which the registrant is authorized to handle, and the expiration date of the registration.~~
- c) ~~The registrant shall prominently display the certificate of registration at the registered location.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.160 Suspension or Revocation of Registration (Repealed)

- a) ~~Before revoking or suspending any registration, the Director shall issue a notice of hearing to determine why registration should not be revoked or suspended and shall hold a hearing pursuant to Paragraph 1305 of the Act. Notwithstanding the requirements of this subsection, however, the Director may suspend any registration pending a final order pursuant to Paragraph 1305(b).~~
- b) ~~Upon service of the Order of the Director suspending or revoking registration, the registrant shall immediately deliver his certificate of registration to the Department.~~
- c) ~~In the event that revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new certificate of registration for all substances not affected by such revocation or suspension; no fee shall be required to be paid for the new certificate of registration. The~~

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~~registrant shall deliver the old certificate of registration to the Department.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.170 Suspension of Registration Pending Final Order (Repealed)

- a) ~~In any case where the Director finds that there is an imminent danger to public health and safety, he may suspend any registration simultaneously with or at any time subsequent to the service upon the registrant of notice of hearing pursuant to Section 1650.200. If the Director so suspends, he shall serve, pursuant to Paragraph 1305(b):~~
- ~~1) An order of immediate suspension which shall contain a statement of his findings regarding the danger to the public health or safety, and~~
 - ~~2) A notice of hearing on said suspension pursuant to Section 3100.220. The order of immediate suspension and hearing shall be served personally or by certified mail, return receipt requested, to the address given by registrant pursuant to Section 3100.470.~~
- b) ~~Upon service of the order of immediate suspension, the registrant shall promptly return his certificate of registration to the Department.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.180 Extension of Registration (Repealed)

~~In the event that an applicant for registration (who is doing business under a registration previously granted and not revoked or suspended) has applied for renewal at least 30 days before the date on which the existing registration is due to expire, and the Director has issued no order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continue in effect until the date on which the Director so issues his order. The Director may extend any other existing registration under the circumstances contemplated in this Section even though the registrant failed to apply for renewal at least 30 days before expiration of the existing registration, with or without request by the registrant, if the Director finds that such extension is not inconsistent with the public health or safety.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

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Section 3100.190 Hearing Officer (Repealed)

~~Any hearing required by the Act or this Part to be held by the Department may be conducted by the Director or a qualified hearing officer named by the Director to hear the matter in the Director's place and stead.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.200 Hearings and Notices

Hearings shall be conducted in accordance with Section 305 of the Act and with 68 Ill. Adm. Code 1110.

- a) ~~Except as provided in Paragraph 1305(b) of the Act, if the Department seeks to deny, revoke, suspend or refuse to renew an application for registration or renewal, a hearing shall be held pursuant to the provisions of this Section as hereinafter set forth.~~
- b) ~~Not later than 30 days prior to the scheduled date of any hearing to be held pursuant to this Section, the Department shall give notice of such hearing to the registrant or applicant involved who is named as respondent and shall include the Department Complaint containing:~~
 - 1) ~~A statement of the time, date, location and nature of the proceeding;~~
 - 2) ~~The name of the hearing officer if a person other than the Director is to conduct the hearing;~~
 - 3) ~~A statement setting forth a list of the charges against such respondent including specifications of the acts complained of or in case of a denial of registration or renewal, the basis for such denial;~~
 - 4) ~~Reference to the Paragraphs of the Act and the particular rules allegedly violated and reference to the particular Paragraphs of the Act and particular rules granting authority and jurisdiction to the Department to conduct such hearing;~~
 - 5) ~~Any other information which the Department may deem advisable or~~

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~~necessary to the adequate notification of such respondent;~~

- ~~6) The time within which such respondent may file an Answer with the Department and where and to whom it must be sent. There is no need for respondent to file an Answer and all allegations of the Complaint will be deemed to be contested unless specifically admitted by the respondent.~~
- ~~e) All Notices, in connection with hearings specified in this Section, from and to the Department shall be sent by certified mail, return receipt requested, at the addresses provided for mailing notices pursuant to Section 3100.470. If an attorney enters his appearance for the respondent, then the respondent's notices shall thereafter be sent both to the respondent and to his attorney.~~
- ~~d) If the respondent shall believe the hearing officer selected to conduct such hearing is prejudiced against such respondent or his attorney, such respondent shall make a request in writing to the Director, at least 14 days prior to the date set for the hearing, to substitute another hearing officer. Such request shall be accompanied by an affidavit setting forth the facts upon which such claim of prejudice is predicated signed by such respondent or officer thereof or the attorney engaged to represent such respondent. Upon receipt of such request, the Director shall make a determination based upon such evidence as he deems sufficient whether such prejudice to the rights of the respondent exists and the Director may appoint a substitute hearing officer if he finds there is prejudice.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.210 Procedures for Hearing (Repealed)

- ~~a) The technical rules of evidence shall not apply at any hearing involving any registration or denial, revocation or suspension thereof. The parties shall be given an opportunity to present evidence and oral or written argument (or both) on any time issue of fact and law.~~
- ~~b) The burden of proof in any proceeding shall be upon the complainant therein, except that, in the case of any new matter introduced in connection with any affirmative defense, the burden of proof with respect thereto shall be upon the party which alleges such new matter. Any evidence having probative value in force, relevant and material to facts and issue, shall be admitted into the proceedings, subject only to the objections to the weight thereof as distinguished~~

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~~from admissibility, per se. Immaterial, irrelevant and unduly repetitious evidence shall be excluded. When the admissibility of evidence is in dispute and depends upon fairly arguable interpretations of law, such evidence shall be admitted.~~

- ~~e) Any party may submit evidence in rebuttal of surrebuttal.~~
- ~~d) A party may conduct examination or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination does not descend to sheer abuse or harassment of a witness and the examination or cross-examination can be shown to be necessary to full and fair disclosure of facts bearing upon matters in issue.~~
- ~~e) If the Director or hearing officer presiding determines that a witness is hostile or unresponsive, he may authorize the examination by the party calling such witness as if under cross-examination.~~
- ~~f) Any party may call any adverse party as a witness without vouching for his credibility and proceed to examine such adverse party as if under cross-examination. Any party calling a witness, upon a showing that he called the witness in good faith and is surprised by his testimony, may impeach that witness by evidence of prior inconsistent statements.~~
- ~~g) A deposition may be used in lieu of other evidence when taken in compliance with the Illinois Supreme Court rules governing evidence depositions in the Circuit Court of the State of Illinois.~~
- ~~h) Anything herein to the contrary notwithstanding, effect shall be given to the rules of privilege recognized by law with respect to any evidence presented or attempted to be presented.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.220 Hearing – Pursuant to Paragraph 1305(b) (Repealed)

- ~~a) If the Director, pursuant to Paragraph 1305(b) of the Act, suspends a registration, a hearing thereon shall be set within the time prescribed by the Act. Notice of such hearing shall be served in accordance with Section 1650.170.~~
- ~~b) Notice of hearing pursuant to this Section shall contain the information required~~

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~~for notices sent pursuant to Section 1650.200.~~

- e) ~~The provisions of Section 1650.200(d) shall apply to a hearing hereunder except that the request for change in hearing officer shall be made at least 7 calendar days prior to the date of hearing unless the Director, upon good cause shown, waives the requirement.~~
- d) ~~Except as hereinbefore noted in this Section, all procedures relating to hearings as set forth in this Part shall apply.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.230 Default Disposition of a Contested Case (Repealed)

~~Unless otherwise provided by law, if a respondent fails to appear at any hearing after proper service of notice, without good cause shown, the hearing officer, if no continuance is granted, may proceed with the hearing and make his decision in the absence of such respondent.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.240 Recording of Testimony (Repealed)

~~At any hearing on denial, revocation or suspension of a registration, the testimony of witnesses may be recorded by mechanical, electrical, electronic or visual recording devices.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.250 Recording of Hearing (Repealed)

~~The record of any hearing shall include:~~

- a) ~~The Complaint and Answer or other pleadings, if any;~~
- b) ~~The transcript of the proceedings including exhibits of evidence and the findings of fact, conclusions of law and recommendations of the hearing officer, the Director or hearing officer if a person other than the Director conducts such hearing, as the case may be;~~
- e) ~~The final order or determination made by the Director.~~

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(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.260 Rehearing (Repealed)

- a) ~~Prior to the entry of a final order of denial of, revocation of or suspension of a registration, the hearing officer shall cause to be served upon the respondent a copy of such hearing officer's conclusions of law and fact and recommendations to the Director. Service shall be had personally or by registered mail upon respondent at the address set forth in Section 3100.470, and his attorney.~~
- b) ~~Within 20 days after such service, respondent may present to the Director, a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. Notice of such motion shall be served upon the Director in person or by registered mail at the address set forth in Section 3100.470.~~
- c) ~~If the Director receives such notice for rehearing as set forth in subsection (b) above, or otherwise does not agree with the findings, conclusions or recommendations of the hearing officer, he may refer the matter back to the same or another hearing officer for rehearing.~~
- d) ~~Notice of rehearing shall be served in the same manner as for an original hearing hereunder and the rehearing shall be conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the Director's reconsideration and for judicial review.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.270 Final Decisions and Orders (Repealed)

~~A final decision or order of the Director granting, denying, suspending or revoking a registration shall be made, within a reasonable period after hearing or rehearing, in writing or stated in the record and shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be based exclusively on the evidence presented at the hearing, rehearing, or known to all parties and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and as supported by and in accordance with the competent material and substantial evidence. The order shall specify the~~

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~~date on which it shall take effect. A copy of the decision or order shall be delivered or mailed certified mail, return receipt requested, forthwith to each party or to his attorney of record, if he has one. The decision or order shall be sent to the party at the address specified by such party pursuant to Section 3100.470(b) by certified mail, return receipt requested.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.280 Modification in LicensureRegistration

~~Any licenseeregistrant may apply to modify his or her licenseregistration to authorize the handling of additional controlled substances in the same manner as an original application for licensure on forms provided by the Director by submitting a letter of request to the Director. The letter shall contain the registrant's name, address, registration number, and the substances and/or Schedules to be added to his registration and shall be signed by the same person who signed the most recent application for registration or renewal or by a person who is then authorized to sign for the former individual. The request for modification shall be handled in the same manner as an application for registration, including the payment of the required fee.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.290 Termination of LicenseRegistration

- a) ~~The licenseregistration of any person shall terminate if and when thatsuch person dies, ceases legal existence, discontinuesdiscontinued business or professional practice, has his or her primary professional license in any status other than active, or changes his or her name or address as shown on the licensecertificate of registration.~~
- b) ~~Any licenseeregistrant who ceases legal existence, discontinues business or professional practice, or changes his or her name or address as shown on the licensecertificate of registration shall notify the DivisionDepartment promptly of thatsuch fact within 10 days.~~
- c) ~~The license of an advanced practice nurse or physician assistant that has been delegated controlled substance prescriptive authority shall terminate when the delegated authority terminates. In the event of a change in name, the person may apply for a new certificate of registration in advance of the effective date of such change by filing an application and paying the appropriate fee in the same manner as an application for new registration. The application shall be handled in the~~

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~~same manner as an application for registration.~~

- d) ~~When a registrant notifies the Department of change in address, the Department shall issue an amended certificate of registration showing the new address. Such amended certificate must be displayed and otherwise used by the registrant as required by the Act and this Part for the display and use of the certificate which it replaces.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.300 Transfer of LicenseRegistration

No licensee or any authority conferred thereby shall be assigned or otherwise transferred ~~except upon such conditions as the Department may specifically designate and then only pursuant to its written consent.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.310 Security Requirements Generally

- a) All applicants and licensees shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a person has provided effective controls against diversion, the Division shall use the security requirements set forth in this Section as standards for the physical security controls and operating procedures necessary to prevent diversion. Substantial compliance with these standards may be deemed sufficient by the Division after evaluation of the overall security system and needs of the applicant or licensee.
- b) Physical security controls shall be commensurate with the Schedules, and quantity, type and form of controlled substances (e.g., bulk liquids or dosage units, usable powders or non-usable powders) in the possession of the licensee in normal business operations. When physical controls become inadequate as a result of a controlled substance being transferred to a different Schedule, or as a result of a non-controlled substance being listed on any Schedule, or as a result of a significant increase in the quantity of controlled substances in the possession of the licensee during normal business operations, the physical security controls shall be expanded and extended accordingly. A licensee may adjust physical security controls within the

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requirements set forth ~~in this Section herein~~ when the need for ~~those such~~ controls decreases as a result of a controlled substance being transferred to a different Schedule, or as a result of a controlled substance being removed from control, or as a result of a significant decrease in the quantity of a controlled substance in the possession of the ~~licensee/registrant~~ during normal business operations.

- c) Any additional security evidence, including but not limited to: video surveillance, computer access logs or records, or falsified prescription/medical documentation that demonstrates or captures diversion or other illicit activity involving controlled substances shall be made available to the Division upon request, along with a copy of any DEA Form 106 filed pursuant to Section 3100.360(e).
- d) Personal bags of any kind, including but not limited to purses, handbags and backpacks, are prohibited in any area where controlled substances are handled and/or stored.
- e) In pharmacies, all physical security controls shall include, at minimum:
 - 1) An alarm system that, upon unauthorized entry, shall transmit a signal directly to a central protection company of a local or state police agency that has a legal duty to respond, or a 24-hour control station operated by the licensee, or other protection as the Division may approve.
 - 2) A key to the licensed pharmacy area maintained by an employee of the pharmacy who is a licensed pharmacist or a registered pharmacy technician or certified pharmacy technician.
- e) ~~Physical security controls of locations registered under the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 90-513, 84 Stat. 1236), shall be deemed to comply substantially with the standards set forth herein. Any new facilities or work or storage areas constructed or utilized for controlled substances, which facilities or work or storage areas have not been previously approved, shall not necessarily be deemed to comply substantially with the standards set forth herein, notwithstanding that such facilities or work or storage areas have physical security controls similar to those previously approved.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.320 Factors in Evaluating Physical Security Systems

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In evaluating the overall security system of a [licenseeregistrant](#) or applicant necessary to maintain effective controls against theft or diversion of controlled substances, the [DivisionDepartment](#) may consider any of the following factors as it may deem relevant to the need for strict compliance with [this Part](#):

- a) The type of activity conducted;
- b) The type and form of controlled substances handled;
- c) The quantity of controlled substances handled;
- d) The location of the premises and the relationship [thosesueh](#) locations bear on security needs;
- e) The type of building construction comprising the facility and the general characteristics of the building or buildings;
- f) The type of vault, safe, and secure enclosures available;
- g) The type of closures on vaults, safes, and secure enclosures;
- h) The adequacy of key control systems and/or combination lock control systems;
- i) The adequacy of electric detection and alarm systems, [if any](#);
- j) The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;
- k) [The adequacy of supervision over employees having access to manufacturing and storage areas](#);
- ~~l)~~ The procedures for handling business guests, visitors, maintenance personnel, and non-employee service personnel;
- ~~m)~~ The availability of local police protection or of the [licensee'sregistrant's](#) or applicant's security personnel; [and](#)
- ~~n)~~ The adequacy of the [licensee'sregistrant's](#) or applicant's system for monitoring the

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receipt, manufacture, distribution, and disposition of controlled substances in its operations; ~~and-~~

- o) The applicability of the security requirements contained in all federal, State and local laws and regulations governing the management of waste.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.330 Physical Security Controls for Non-Practitioners

Raw materials, bulk materials awaiting processing, and finished products ~~that~~which are controlled substances listed in any Schedule shall be stored in compliance with the physical security controls set forth in 21 CFR 1301.72, one of the following secure storage areas:

- ~~a) Where small quantities permit, a safe:~~
- ~~1) Which safe has an Underwriters' Laboratories Burglary Rating of T-20, E or better, or the equivalent of such a safe;~~
 - ~~2) Which safe, if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and~~
 - ~~3) Which safe, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system which, upon unauthorized entry, shall transmit a signal directly to a central protection company of a local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Department may approve.~~
- ~~b) A vault which is of substantial construction with a steel door, combination lock or key lock, and an alarm system.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.340 Physical Security Controls for Practitioners

- a) Controlled substances listed in ~~Schedules~~Schedule I and II shall be stored in a securely locked, substantially constructed cabinet.

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- b) Controlled substances listed in Schedules II, III, IV and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies ~~and institutional practitioners (as defined under federal statutes)~~ may disperse ~~those~~ such substances throughout the stock of non-controlled substances in ~~such~~ a manner so as to obstruct the theft or diversion of the controlled substances.
- c) This Section shall also apply to non-practitioners authorized to conduct instructional activities or chemical analysis under another registration.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.350 Other Security Controls for Practitioners

- a) The ~~licensee~~registrant shall not employ as an agent or employee who has access to controlled substances any person who has had an application for DEA registration or state controlled substances license ~~registration~~ denied, ~~or~~ has had his ~~or her~~ DEA registration or state controlled substances license ~~registration~~ suspended or revoked, ~~or~~ has surrendered his ~~or her~~ DEA registration ~~registration~~ or state controlled substances license in lieu of discipline, ~~registration~~ or has been convicted of a violation of state or federal law relative to the manufacture, distribution, dispensing or possession of controlled substances.
- b) The Director, for good cause shown, may, in his or her discretion, waive the requirement of subsection (a), ~~above~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.360 Record and Inventorying Requirements Generally

- a) Every ~~licensee~~registrant shall keep records and maintain inventories in conformance with the record keeping and inventorying requirements of federal law, including the requirements prescribed in 21 CFR Part 1304 of Title 21 of the Code of Federal Regulations, and, for pharmacies, the rules promulgated pursuant to the Pharmacy Practice Act (68 Ill. Adm. Code 1330).
- b) All prescription information for electronic controlled substance prescriptions shall be readily retrievable and immediately available to any Division inspector upon request.

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- c) Every licensee shall conduct an annual inventory that includes an inventory with an actual count of the inventory on hand for all Schedule II Controlled Substances and an approximate inventory for all Schedule III, IV and V Controlled Substances. The inventory shall be maintained for a period of not less than 5 years.
- d) After a loss or theft of controlled substances, a licensee shall conduct an actual count inventory with a start date of the last inventory for the controlled substance that was either lost or stolen.
- e) In every instance that a licensee is required by 21 CFR 1301.76 to file with the DEA a Report of Theft or Loss of Controlled Substances (Form 106), a copy shall be simultaneously sent to the Division, along with the printed name of the person who signed the form. Failure to do so may result in discipline of the licensee. This information should be sent to the Drug Compliance Unit of the Division.
- f) The following shall apply to all licensed pharmacies:
 - 1) Every licensee shall keep a suitable book, file or electronic record keeping system in which shall be preserved for a period of not less than 5 years the original, or an exact, unalterable image, of every written prescription and the original transcript or copy of every verbal prescription filled, compounded or dispensed. The book or file of prescriptions shall at all reasonable times be open to inspection by the duly authorized agents or employees of the Division.
 - 2) Every prescription filled or refilled shall contain in the prescription record the unique identifiers of the persons authorized to practice pharmacy under the Pharmacy Practice Act who fills or refills the prescription.
 - 3) Records kept pursuant to this Section may be maintained in an alternative data retention system, such as a direct digital imaging system, provided that:
 - i) The records maintained in the alternative data retention system contain all of the information required in a manual record;
 - ii) The data processing system is capable of producing a hard copy of the electronic record on the request of the Division, its

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representative, or other authorized local, State, or federal law enforcement or regulatory agency;

iii) The digital images are recorded and stored only by means of a technology that does not allow subsequent revision or replacement of the images; and

iv) The prescriptions may be retained in written form or recorded in a data recording processing system, provided that the order can be produced in printed form upon lawful request.

4) As used in subsection (f)(3), "digital imaging system" means a system, including people, machines, methods of organization and procedures, that provides input, storage, processing, communications, output and control functions for digitized representations of original prescription records.

g) Inpatient drug orders may be maintained within an institution in a manner approved by the Division.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.370 Persons Entitled to Issue Prescriptions

- a) A prescription for a controlled substance may be issued only by an individual practitioner who ~~is~~:
- 1) Holds an active professional license in Illinois as an individual practitioner~~Authorized to prescribe controlled substances by the State of Illinois;~~ and
 - 2) Holds an active controlled substances license under the Act~~Deemed registered~~ or is exempted from licensureregistration pursuant to Section 3100.80~~Paragraph 1302 of the Act.~~
- b) A prescription issued by an individual practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner pursuant to the directions and order of ~~the~~ ~~thatsaid~~ practitioner in conformance with Section 312 of the Act.

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(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.380 Purpose of ~~Issuance~~Issue of a Prescription

- a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription within the meaning and intent of Section 312~~Paragraphs 1308-1312~~ of the Act, but that is not, and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.
- b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.
- c) A prescription may not be issued for the dispensing of narcotic drugs listed in any Schedule to a narcotic drug dependent person for the purpose of continuing his or her dependence upon such drugs, except in the case of the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program.
- d) A practitioner may not self-prescribe controlled substances. A practitioner may not prescribe controlled substances to an immediate family member unless there is a bona fide practitioner-patient relationship and appropriate records are maintained for all treatment of the family member.
- e) The provisions of the federal Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (Ryan Haight Act) (21 USC 801 et seq.) also apply and all federal regulations adopted under that Act are hereby incorporated by reference.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.390 Manner of Issuance of Prescription

- a) All prescriptions for controlled substances shall be dated as of, and signed on, the

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day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address, and DEA federal registration number of the practitioner. ~~A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., "J. H. Smith" or "John H. Smith"). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner except in the instances of a Schedule II prescription, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this Part.~~

- b) A practitioner may sign a paper prescription in the same manner as he or she would sign a check or legal document (e.g., J.H. Smith or John H. Smith). When an oral order is not permitted, paper prescriptions shall be written with ink or printed and shall be manually signed by the practitioner. A computer-generated prescription that is printed out or faxed by the practitioner must be manually signed.
- c) A prescription may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form ~~required~~ by this Part. Neither a pharmacist nor a pharmacy technician may act as an agent for a practitioner.
- d) Prescriptions sent via a facsimile transmission do not constitute electronic prescriptions in accordance with Section 311.5 of the Act.
- e) Electronic ~~prescribing~~ is permitted as described in Section 311.5 of the Act.
- b) Any person referred to in Section 3100.80 who is exempted from registration under statute or this Part shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution as provided in statute or this Part, in lieu of the registration number of the practitioner required by this Part. Each prescription shall have the name of the person so specified by

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~~Section 1650.80 printed on it.~~

- e) ~~An official exempted from registration under statute shall include on all prescriptions issued by him, his branch of service or agency (e.g., "U. S. Army" or "Public Health Service") and his service identification number, in lieu of the registration number of the practitioner required by these regulations. The service identification number for a Public Health Service practitioner is his social security identification number. Each prescription shall have the name of the officer stamped or printed on it, as well as the signature of the officer. Public Health Service practitioners shall issue prescriptions for Schedule II controlled substances on conventional prescription forms, not triplicate prescription blanks.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.400 Requirement of Prescription for Schedule II Controlled Substances

- a) ~~A pharmacist may fill a Schedule II controlled substance prescription only upon a written or electronic prescription that conforms ~~triplicate prescription blank and in accordance with the requirements of Section 311.5 or 312 Paragraph 1311 of the Act, respectively, and the requirements of this Part, except a prescription issued by a Public Health Service practitioner or out-of-state practitioner may be filled when written upon a conventional prescription form.~~~~
- b) An individual practitioner may administer or dispense directly a controlled substance listed in Schedule II in the course of his or her professional practice subject to the Act and this Part.
- c) Changes in a Prescription
- 1) A pharmacist may not change the following components of a prescription for a Schedule II controlled substance:
- A) Date written, or add the date;
- B) Name of the patient;
- C) Name of the prescriber, or add a signature; and
- D) Name of the drug.

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- 2) Any other components of a prescription for a Schedule II controlled substance may be changed after consultation with the prescriber.
- e) ~~An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule II only pursuant to a written prescription signed by the prescribing individual practitioner or to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user.~~
- d) In an emergency situation, as defined by subsection (e), ~~below~~, a pharmacist, in accordance with requirements in 21 CFR Section 1306.11(d) of Title 21 of the Code of Federal Regulations and Section 309 Paragraph 1309 of the Act, may fill an oral prescription for a Schedule II controlled substance~~prescription which is oral or written on a form other than a triplicate prescription blank.~~
- e) For the purposes of authorizing an oral prescription of a controlled substance listed in Schedule II of the Act, the term "emergency situation" means those situations in which the prescribing practitioner determines that:
- 1) ~~Immediate~~That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user; ~~and~~
 - 2) ~~No~~That no appropriate alternative treatment is available, including administration of a drug that~~which~~ is not a controlled substance under Schedule II of the Act; and
 - 3) ~~It~~That it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance, prior to the dispensing.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.410 Refilling of Prescription

- a) Each refilling of a prescription of a controlled substance listed in Schedules III, IV or V:
- 1) shall be entered on the back of the prescription or in the electronic

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prescription record; ~~and~~

- 2) shall indicate the date, quantity, and name or initials of the dispensing pharmacist for each prescription; ~~and~~
 - 3) shall be dated by the pharmacist as of the date of dispensing; ~~and~~
 - 4) shall state the amount dispensed.
- b) If the pharmacist merely signs or initials and dates the back of the prescription, he or she shall be deemed to have dispensed a refill for the full face amount of the prescription.
- c) A pharmacist may contact the prescriber to refill a Schedule III, IV or V controlled substance only at the request of a patient.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.420 Partial Filling of Prescriptions

- a) The partial filling of a prescription for a controlled substance listed in Schedules III, IV or V is permissible within 6 months after the date on which the prescription was issued provided that:
 - 1) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed;
 - 2) Each partial filling is recorded in the same manner as a refilling, but shall not be considered a refill.
- b) When Partial Filling of a Schedule II Controlled Substance is Permissible
 - 1) Except as provided in subsections~~subparagraph~~ (b)(2), ~~below~~, the partial filling of a prescription for a controlled substance listed in Schedule II is permissible, if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and he or she makes a notation of the quantity supplied on the face of the written prescription, ~~for~~ written record of the emergency oral prescription, or in the electronic prescription record. The remaining portion of the prescription may be

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filled within 72 hours ~~after~~ of the first partial filling; however, if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescribing individual practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

- 2) Prescriptions for Schedule II controlled substances written for patients in Long Term Care Facilities (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities, to include individual dosage units. The pharmacist must obtain documentation from the prescribing practitioner within 72 hours prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is terminally ill or an LTCF patient. A prescription for a Schedule II controlled substance that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of the Act. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharmacist. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF, shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.
- 3) Information pertaining to current Schedule II prescriptions for patients in ~~an~~ LTCF or for patients with a medical diagnosis documenting a terminal illness may be maintained in a computerized system if this system has the capability to permit:
 - A) Output (display or printout) of the original prescription number, date of issue, identification of prescribing individual practitioner, identification of patient, ~~address of the~~identification of LTCF ~~or~~ address of the hospital or residence of the patient, identification of medication authorized (to include dosage form, strength and quantity), listing of partial fillings that have been dispensed under

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each prescription and the information required in ~~subsections~~subparagraph (b)(2), ~~above~~.

- B) Immediate (real time) updating of the prescription record each time a partial filling of the Schedule II prescription is conducted.
- C) Retrieval of partially filled Schedule II prescription information is the same as required by 21 CFR~~Section~~ 1306.22(b)(4) and (5) ~~of Title 21 of the Code of Federal Regulations~~ for Schedule III and IV prescription refill information.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.430 Prescriptions from Out-of-State Practitioners and Exempt Federal Practitioners

- a) ~~Notwithstanding any other provision of this Part, Illinois pharmacists may fill prescriptions for controlled substances issued by a practitioner actively licensed in another United States jurisdiction and who holds an active DEA registration in conformance with the Act and this Part. Every pharmacist who fills an emergency Schedule II prescription, or a Schedule II prescription issued by an out-of-state practitioner or an exempt federal practitioner, shall make a copy and endorse on the reverse side of such copy the name and address of the pharmacy, the date when filled and the signature of the pharmacist who filled such prescription and forward said copies as set forth in Paragraph 1311 of the Act.~~
- b) ~~For purposes of this Section, an out-of-state practitioner is one who is of a category licensed in this state to issue prescriptions.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.440 Authority to Make Inspections

- a) In carrying out its functions under the Act, the ~~Division, Department~~ through its inspectors, is authorized in accordance with Section 302~~Paragraph 1302~~ of the Act to enter controlled premises and conduct administrative inspections of those premises, thereof ~~without subpoena or notice~~, for the purpose of:
 - 1) Inspecting, copying and verifying the correctness of records, reports or

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- other documents required to be kept or made under the Act and this Part. Upon the Division's request, the licensee's agent or employee shall produce those records, the rules promulgated under the Act, including, but not limited to, inventory and other records required to be kept pursuant to this Part, order form records required to be kept pursuant to this Part, prescription and distribution records required to be kept pursuant to this Part, shipping records identifying the name of each carrier used and the date and quantity of each shipment, and storage records identifying the name of each warehouse used and the date and quantity of each storage;
- ~~2)~~ Inspecting within reasonable limits and in a reasonable manner all pertinent equipment, finished and unfinished controlled substances and other substances or materials, containers and labeling found at the controlled premises relating to the Act;
- ~~2)3)~~ Making a physical inventory of all controlled substances on hand at the premises;
- ~~3)4)~~ Collecting samples of controlled substances or precursors or any other relevant evidence (in the event any samples are collected during an inspection, the inspector shall issue a receipt for ~~thesuch~~ samples to the owner, operator or agent in charge of the premises).~~;~~
- ~~5)~~ Checking of records and information on distribution of controlled substances by the registrant as they relate to total distribution of the registrant (i.e., has the distribution in controlled substances increased markedly within the past year and, if so, why?); and
- ~~6)~~ Except as provided by law, all other things therein (including records, files, papers, processes, controls and facilities) appropriate for verification of the records, reports and documents referred to above or otherwise bearing on the above provisions of the Act and the rules thereunder.
- b) Refusal by the licensee-registrant or owner, operator, agent or other person in charge of the controlled premises to allow inspection and fully comply with the inspection pursuant to this Part, shall constitute an imminent danger to the public health or safety as provided in Section 305 of the Act ~~a basis for suspension or revocation of registration.~~

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(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.450 Inspections

- a) An inspection shall be carried out by an inspector or designee from the Division~~Department~~ authorized by the Act or other Illinois statute to carry out the~~such~~ inspection.
- b) The~~Such~~ inspector or designee upon entry shall:
- 1) State the purpose of his or her inspection to the owner, operator, agent or other person in charge of the premises to be inspected.
 - 2) Present appropriate credentials to the~~such~~ owner, operator, agent or other person in charge ~~for making such inspection.~~
- c) Appropriate credentials for the making of an~~such~~ inspection shall include but are not limited to a duly issued identification card, badge, etc., of the Division for the inspector or designee.:
- 1) Duly issued identification card, badge, etc., of the Department for such inspector;
 - 2) Notice of inspection issued by the Department containing:
 - A) The name and title of the owner, operator, agent or other person in charge of the premises;
 - B) The controlled premises name;
 - C) The controlled premises address to be inspected;
 - D) The date of the inspection; and
 - E) The signature of the inspector.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.460 Failure to Comply with Rules

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- a) Failure of a ~~licensee~~registrant to comply with ~~this Part~~the rules as set forth herein constitutes a basis for revocation, ~~or suspension~~or other discipline of ~~the licensee's license~~such registrant's certificate of registration.
- b) Failure of an applicant ~~for registration~~ to comply with this Part as applicable to ~~that~~such applicant constitutes a basis for denial of ~~license~~such application.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.470 Address for Notices (Repealed)

- a) ~~Unless the Act or this Part otherwise provides, all notices required by this Part to be sent to the Department or Director shall be sent to the Department of Professional Regulation, 100 West Randolph, Suite 9-300, Chicago, Illinois 60601, by certified mail, return receipt requested.~~
- b) ~~Street Address~~
 - 1) ~~Every applicant or registrant shall provide the Department with an address to which all communications from the Department to such applicant or registrant shall be sent. Such address shall be an actual street address and shall include the city or town, state and zip code number.~~
 - 2) ~~Furnishing of post office box numbers or other forms of address shall not constitute sufficient compliance with subsection (b)(1).~~
- e) ~~The address required by subsection (b) shall be provided by the applicant or registrant either as part of his/her application for registration or renewal or by letter to the Department.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.480 Granting Vairances~~Suspension or Modification of Rules and Regulations~~

The Director may grant variances from this Part in individual cases when he or she finds that:

- a) the provision from which the variance is granted is not statutorily mandated;

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- b) no party will be injured by the granting of the variance; and
- c) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

~~This Part may be suspended or modified by the Director of the Department, in whole or in part, in the interests of justice. The Department, by and through its Director, reserves the right to waive compliance with any of this Part whenever, in the Director's judgment, no party will be injured thereby.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.490 Construction of Rules and Regulations (Repealed)

~~This Part should not be construed to abrogate, modify or limit any rights, privileges or immunities granted or protected by the Constitution or laws of the State of Illinois nor to deny any person life, liberty or property without due process of law.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 3100.500 Ordering Controlled Substances~~Written Order~~

- a) ~~Controlled substances identified below shall be distributed~~ to a licensee and received by a licensee/registrant to another registrant only upon completion of an Administration Form 222 pursuant to a written order:
 - 1) ~~which are listed under Schedule I or II of the Schedules of Controlled Substances provided by the Illinois Controlled Substances Act or the rules prescribed by the Illinois Dangerous Drugs Commission; and~~
 - 2) ~~which are not listed under Schedule I or II of the Schedules of Controlled Substances of either the federal Controlled Substances Act or Title 21 of the Code of Federal Regulations.~~
- b) ~~Such written order:~~
 - 1) ~~shall contain the following information:~~

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- A) ~~name, address and Drug Enforcement Administration ("DEA") registration number of the ordering registrant;~~
 - B) ~~name, address and DEA registration number of the selling or transferring registrant;~~
 - C) ~~name of the drug ordered;~~
 - D) ~~finished or bulk form and strength of the article (e.g., 50 mg. tablet);~~
 - E) ~~number of the units or volume in each container (e.g., 100 tablet bottle, one ml. ampoule, 10 ml. vial);~~
 - F) ~~number of containers ordered; and~~
 - G) ~~name and quantity per unit of the controlled substances contained in the article ordered if not in pure form (e.g., Talwin Comp. 12.5 mg. per tablet); and~~
- 2) ~~shall be signed and dated by a person authorized to execute federal order forms or his attorney in fact.~~

- be)** The original of ~~the Administration Form 222such written order~~ shall be maintained by the selling or transferring ~~licenseeregistrant~~ for a period of two years with such other controlled substances records as shall be maintained by ~~the licenseesuch registrant~~. A copy of ~~the Administration Form 222such written order~~ shall be maintained by ~~the ordering licenseeregistrant~~ for a period of two years ~~with such other controlled substances records as shall be maintained by such registrant~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.510 ~~Paragraph 1312(d)~~ Record Keeping

Records for dispensing and administering required by Section 312(d) of the ~~Illinois Controlled Substances Act (Ill. Rev. Stat. 1985, ch. 56, par. 1312(d))~~ shall be kept ~~in accordance with 21 CFR 1304~~ as follows:

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- a) ~~Schedule II~~
- 1) ~~Designated Products~~
- A) ~~Designated products dispensed, but not administered, by an individual practitioner shall be recorded on an official triplicate prescription blank. A legible duplicate prescription blank shall be sent to the Department by the 15th day of the month following the month in which the controlled substance was dispensed. The original of the prescription blank shall be retained by the practitioner for two years and kept separately from prescription blanks recording actual prescriptions. Prescription blanks required by this Section shall be marked with a "D" in the upper right hand corner.~~
- B) ~~Designated products administered by an individual practitioner shall be recorded on a separate document entitled "Patient Controlled Substances Record."~~
- 2) ~~Non-Designated Products~~
~~Schedule II controlled substances which are not designated products and which are dispensed or administered by an individual practitioner shall be recorded on a separate document entitled "Patient Controlled Substances Record."~~
- b) ~~Schedules III, IV and V~~
~~Schedules III, IV and V controlled substances which are dispensed by an individual practitioner shall be recorded on a separate document entitled "Patient Controlled Substances Record." This subsection (b) does not apply to Schedules III, IV and V controlled substances administered by an individual practitioner.~~
- e) ~~All Patient Controlled Substances Records, for Schedules II through V, required by this Section shall be maintained in the same place and shall be arranged alphabetically by drug or substance, with a separate record for each dosage form. For each instance of dispensing or administering, the "Patient Controlled Substances Record" shall contain an entry with the following information:~~
- 1) ~~The date of dispensing or administering;~~

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- 2) ~~The name of the patient to whom the drug or substance was dispensed or administered;~~
- 3) ~~The quantity (number of units or volume) dispensed or administered; and~~
- 4) ~~The name or initials of the individual who dispensed or administered the controlled substance on behalf of the individual practitioner, if not dispensed or administered by the practitioner himself.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.520 Emergency Medication Kits

Long term care facilities may store controlled substances in ~~an~~the emergency medication kit if permitted by the licensing regulations of the Illinois Department of Public Health for the facility's particular level of care ("DPH Standards"). The following requirements must be met when controlled substances are stored in emergency medication kits:

- a) Controlled substances for emergency medication kits must be obtained from a DEA registered hospital, pharmacy or practitioner.
- b) Emergency medication kits shall be safeguarded as provided in DPH Standards.
- c) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, or consultant pharmacist or practitioner shall have access to controlled substances stored in emergency medication kits.
- d) No more than ~~10~~ten different controlled substances shall be placed in an emergency medication kit, and there shall be no more than three single, injectible doses of each controlled substance.
- e) Controlled substances in emergency medication kits may be administered only under the emergency conditions set forth in DPH Standards and only by registered nurses, licensed practical nurses or practitioners, in compliance with ~~Paragraphs 21 CFR 1306.11 and 1306.21 of Title 21 of the Code of Federal Regulations.~~ Paragraphs 21 CFR 1306.11 and 1306.21 of Title 21 of the Code of Federal Regulations.
- f) A proof-of-use sheet shall be contained in the emergency medication kit for each separate controlled substance included. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substances from the

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kit are used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets.

- g) Whenever the emergency medication kit is opened, the consultant pharmacist shall be notified within 24 hours. During any period that the emergency kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist. Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be contained in the emergency medication kit.
- h) The consultant pharmacist shall check the controlled substances in the emergency medication kit at least monthly and so document inside the kit.
- i) Failure to comply with any provision of this Section, or of any applicable provision of ~~State~~ or federal statutes or regulations pertaining to controlled substances will result in loss of the privilege of having or placing controlled substances in emergency medication kits.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3100.530 Transfer Between Pharmacies of Prescription Information for Refill Purposes

[Transfer between pharmacies of prescription information shall be done in accordance with 68 Ill. Adm. Code 1330.720 \(rules of the Pharmacy Practice Act\).](#)

- a) ~~The one-time transfer of original prescription information for a controlled substance listed in Schedules III, IV or V of the Illinois Controlled Substances Act (Ill. Rev. Stat. 1981, ch. 56½, pars. 1207-1212) for the purpose of refill dispensing is permissible between pharmacies on a one-time basis subject to the following requirements.~~
- b) ~~The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist completes the following steps:~~
 - 1) ~~Invalidate the prescription by writing the word "VOID" on the face of same.~~
 - 2) ~~Records on the reverse of the invalidated prescription the name, address~~

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- ~~and the DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.~~
- 3) ~~Records the date of the transfer and the name of the pharmacist transferring the information.~~
- e) ~~The pharmacist receiving the transferred prescription information shall take the following steps:~~
- 1) ~~Write the word "transfer" on the face of the transferred prescription.~~
- 2) ~~Provide all information required to be on a prescription pursuant to Section 3100.390 and include:~~
- A) ~~Date of issuance of original prescription;~~
- B) ~~Original number of refills authorized on original prescription;~~
- C) ~~Date of original dispensing;~~
- D) ~~Number of valid refills remaining and date of last refill;~~
- E) ~~Pharmacy's name, address, DEA registration number and date original prescription information was transferred;~~
- F) ~~Name of transferor pharmacist.~~
- 3) ~~Both the original and transferred prescription must be maintained for a period of two years from the date of last refill.~~
- d) ~~Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral as described in subsections (a) and (b) above.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Allocation of Water From Lake Michigan
- 2) Code Citation: 17 Ill. Adm. Code 3730
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
3730.101	Amend
3730.102	Amend
3730.104	Amend
3730.203	Amend
3730.206	Amend
3730.208	Amend
3730.213	Amend
3730.301	Amend
3730.302	Amend
3730.303	Amend
3730.304	Amend
3730.306	Amend
3730.307	Amend
3730.309	Amend
3730.310	Amend
- 4) Statutory Authority: Implementing and authorized by the Level of Lake Michigan Act [615 ILCS 50]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking implements the Department's statutory responsibility (Level of Lake Michigan Act [615 ILCS 50]) to develop and manage a program for the equitable apportionment of Illinois' allowable diversion of water from Lake Michigan for use within the State of Illinois.

The Lake Michigan Water Allocation Rules have been in place since 1980. Since that time, there have been significant advances in water conservation control technologies and in the methodology used to evaluate water system performance. This rulemaking updates the Department's water conservation requirements to reflect current best management practices and technologies, which are required under state law and the U.S. Supreme Court Decree governing Illinois' diversion. This rulemaking also supports Illinois' water conservation program required under the Great Lakes/St. Lawrence River Basin Water Resources Compact.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Department used data regarding water use, efficiency and conservation submitted by our Lake Michigan permittees pursuant to have a Lake Michigan water allocation permit. Other sources which were consulted include the American Water Works Association and the International Water Association, which jointly developed a Water Audit Methodology, available free online at: www.awwa.org/resources. The United States Environmental Protection Agency's "Water Sense" program was consulted to obtain information about their Water Sense labeled plumbing fixtures in updating standards for the use of water efficient plumbing fixtures. This information is available at: <http://www.epa.gov/watersense>. Also reviewed was the publication entitled "Water Efficiency", specifically the July/August 2013 issue which focused on Leak Detection.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking may have an impact in local government.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Robert G. Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposed changes to this Rule will impact Illinois communities,

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commercial entities and water utilities that have a Lake Michigan water allocation permit. These amendments will improve the efficient use and conservation of Lake Michigan water.

- B) Reporting, bookkeeping or other procedures required for compliance: Existing Lake Michigan water allocation permittees already must submit water use audit reports to the Department annually. In response to the proposed amendment, Communities will need to update their ordinances/plumbing codes to require the installation of water efficient plumbing fixtures in new construction and major remodeling, and will be provided ample time to submit updated ordinances to the Department. These proposed amendments will also implement a new water audit methodology which will allow communities to determine the value of water which is lost due to leakage, meter underregistration and other accounting issues. The Department will work with our permittees as we switch to a water audit methodology that closely resembles that which is recommended by the national association that represents water utilities.
- C) Types of professional skills necessary for compliance: The professional skill and expertise needed to complete the Department's proposed new water audit methodology currently exists within our Lake Michigan permittees. To operate and maintain a water system in Illinois, operators need to be a licensed water supply operator. Many communities also employ the services of a professional engineering firm to assist them in various aspects of monitoring the status of their water system. To ease the transition to the new water audit methodology, there will be a 4 year phase in to the new non-revenue standard.

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCES

PART 3730
ALLOCATION OF WATER FROM LAKE MICHIGAN

SUBPART A: GENERAL RULES

Section

- 3730.101 Scope [and Purpose](#)
- 3730.102 Definitions
- 3730.103 Filing
- 3730.104 Form of Documents
- 3730.105 Service of Documents and Proof of Service
- 3730.106 Computation of Time
- 3730.107 Appearances and Representation
- 3730.108 Designation and Representation
- 3730.109 Public Information
- 3730.110 Severability

SUBPART B: HEARING

Section

- 3730.201 Applicability
- 3730.202 Authorization of Hearings
- 3730.203 Parties
- 3730.204 Allocation Applications and Petitions for Modification
- 3730.205 Complaint
- 3730.206 Notice of Hearing
- 3730.207 Prehearing Conferences
- 3730.208 Discovery
- 3730.209 Admissions
- 3730.210 Authority of Hearing Officer
- 3730.211 Hearing Procedure
- 3730.212 Subpoenas
- 3730.213 Official Record
- 3730.214 Order of Hearing Officer or Director

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3730.215 Hearing Officer's Proposed Order

SUBPART C: ALLOCATION RULES

Section

- 3730.301 Allocation Permits
- 3730.302 Application
- 3730.303 Classification of Water Users
- 3730.304 Water Needs Criteria
- 3730.305 Emergencies
- 3730.306 Transfer of Water Use Rights
- 3730.307 Conservation Practices and Other Permit Conditions
- 3730.308 Duration of Permit and Renewals
- 3730.309 Reporting Requirements
- 3730.310 Petitions for Modification

SUBPART D: ADMINISTRATIVE REVIEW

Section

- 3730.401 Administrative Review
- 3730.402 Modification of Order and Decision of Department

SUBPART E: PENALTIES

Section

- 3730.501 Penalties

AUTHORITY: Implementing and authorized by the Level of Lake Michigan Act [615 ILCS 50].

SOURCE: Adopted at 4 Ill. Reg. 38, p. 223, effective September 9, 1980; amended at 5 Ill. Reg. 9158, effective September 1, 1981; codified at 7 Ill. Reg. 9683; amended at 9 Ill. Reg. 386, effective January 1, 1985; amended at 14 Ill. Reg. 1484, effective January 3, 1990; recodified from 92 Ill. Adm. Code 730, Department of Transportation, to Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7786, effective April 21, 2003; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

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Section 3730.101 Scope and Purpose

- a) This Part governs the practices and procedures of the Director and his or her delegated representatives, and all allocation and enforcement proceedings conducted by them pursuant to the Level of Lake Michigan Act [615 ILCS 50].
- b) This Part implements the Department's program for the apportionment of water to be diverted from Lake Michigan among its regional organizations, municipalities, political subdivisions, agencies or instrumentalities for domestic purposes or for direct diversion into the Chicago Area Waterway System to maintain the waterway in a reasonably satisfactory sanitary condition. Consistent with the limitations expressed in a U.S. Supreme Court Decree (Wisconsin v. Illinois, 449 U.S. 48 (1980)), the Lake Michigan water so diverted, whether by way of pumpage for domestic purposes from the lake, the sewage effluent derived from which reaches the Illinois Waterway, or by way of storm runoff from the Lake Michigan watershed that is diverted into the Chicago Area Waterway System, or by way of direct diversion from the lake into the waterway, shall not exceed a 40 year running average of 3,200 cubic feet per second.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.102 Definitions

As used in this Part except where the context indicates otherwise, the following terms shall have the meanings specified:

"Act" means the Level of Lake Michigan Act [615 ILCS 50];

"Annual accounting period" shall be October 1 of each calendar year through the last day in September in the succeeding calendar year;

"Chicago Area Waterway System" or "CAWS" is an engineered system of man-made canals and natural waterways that serves as both a navigation link between Lake Michigan and the Mississippi River system and an outlet for stormwater and effluent. It consists of the North Shore Channel, North Branch of the Chicago River (below the North Branch Dam), Chicago River, South Branch of the Chicago River, South Fork of the South Branch of the Chicago River (Bubbly

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Creek), Chicago Sanitary and Ship Canal, Cal-Sag Channel and portions of the Calumet River and Little Calumet River leading up to the O'Brien lock. In this Part the term "Chicago Area Waterway System" has the same meaning as the term "Sanitary and Ship Canal" used in the Level of Lake Michigan Act [615 ILCS 50];

"Department" means the Illinois Department of Natural Resources;

"Director" means the Director of the Illinois Department of Natural Resources or his or her duly delegated representatives;

"Emergency allocation" means a temporary allocation of Lake Michigan water in accordance with Section 3730.305;

"Emergency and standby use" means water pumped to maintain an adequate water supply in the event of a partial or total failure of the primary water supply source of a permittee;

"Gross annual pumpage" means the total amount of water delivered to a user's system_{:-}

"Hearing Officer" means a person duly designated as the hearing officer by the Director;

"Hydrant uses" means, but is not limited to, all water obtained from hydrants for uses such as fire fighting and training, water main flushing, sewer flushing, street cleaning, and unmetered public and private construction;

"Net annual pumpage" means the total amount of water delivered to a user's system not including wholesale water delivered to other water systems, also referred to as system input volume_{:-}

"New users" refers to any regional organization, municipality, political subdivision, agency, instrumentality, organization, association, or individual that did not have an allocation of Lake Michigan water from the Department on July 1, 1980;

"Non-revenue water" is the difference between net annual pumpage (system input

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volume) and billed, authorized consumption. Non-revenue water shall be determined by taking the net annual pumpage of a water system and subtracting from that amount the quantity of water that is billed, metered consumption and that is billed, unmetered consumption. Non-revenue water includes water that is lost from the system due to underregistration of meters, systematic data handling errors, leakage anywhere within the distribution system, unauthorized consumption or unbilled authorized consumption;

"Party" means an entity that:

~~which~~ has made application to the Department for an allocation of the Lake Michigan diversion pursuant to the Act;⁵ or

~~which~~ has been made a party by the Hearing Officer pursuant to Section 3730.203(c);

"Permittee" means any regional organization, municipality, political subdivision, agency, instrumentality, organization, association,⁷ or individual that has an allocation permit for water from the Lake Michigan diversion;

~~"Unaccounted for flow" means that amount of water supplied to a system (including the components of transmission, distribution, storage, and pumping) which is lost from the system prior to delivery to the end user, but not including unavoidable leakage. "Unaccounted for flow" shall include water not accounted for due to underregistration of meters and water lost due to main breaks. "Unaccounted for flow" shall be calculated by taking the net annual pumpage of the system and subtracting from that figure the amount of water used for residential, commercial, industrial, municipal, hydrant, other identified uses, and unavoidable leakage. The remainder shall be the "unaccounted for flow." In determining the amount of water used for uses that are unmetered, estimates shall be based on acceptable engineering practices at the time of each unmetered use;~~

~~"Unavoidable leakage" means that amount of water lost from a well maintained water system. In determining "unavoidable leakage," consideration shall be given to the age, size and type of pipe and joints, ground conditions surrounding the pipes, the number of service connections, the number of valves and hydrants, and system pressures. The maximum allowable "unavoidable leakage" shall be determined as follows:~~

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~~For cast iron pipe with lead joints~~

Age of system	Maximum unavoidable leakage
greater than 60 years	3000 gal/day/mile of main
40 to 60 years	2500 gal/day/mile of main
20 to 40 years	2000 gal/day/mile of main
less than 20 years	1500 gal/day/mile of main

~~For all other types of pipe and joints~~

Age of system	Maximum unavoidable leakage
greater than 60 years	25000 gal/day/mile of main
40 to 60 years	2000 gal/day/mile of main
20 to 40 years	1500 gal/day/mile of main
less than 20 years	1000 gal/day/mile of main

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.104 Form of Documents

- a) Documents shall clearly show the file or docket number and title of the proceeding in connection with which they are filed, and shall be clearly designated to indicate the nature of the relief sought, inter alia, "application for allocation permit;" "complaint;" "petition for modification;" "petition for emergency allocation;" or "motion;"
- b) Except as otherwise provided, four copies of all documents, including application, complaints, motions, petitions, and petitions for review, shall be filed with the Hearing Officer. Only two copies of any discovery motion, interrogatories, answers to interrogatories, or subpoena filed with or by the Hearing Officer need to be filed with the Hearing Officer.
- c) Documents shall be ~~prepared typewritten or reproduced from typewritten copy~~ on unglazed white paper of greater than 12 pound weight and measuring 8½" x 11". ~~Reproductions may be made by carbon or electrostatic copying machine or any other process that produces legible black on white copies.~~ All documents shall be fastened on the left side or in the upper left hand corner. The left margin of each

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page shall be at least 1½ inches and the right margin at least one inch.

- d) One copy of each document will be signed by the applicant or party or by his or her authorized representative or attorney.
- e) Documents shall contain the name, address and phone number of the applicant or party filing or his or her authorized representative or attorney.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART B: HEARING

Section 3730.203 Parties

- a) The party seeking an allocation permit, an emergency allocation, or the modification of an allocation permit shall be designated as the petitioner. Any party initiating an enforcement proceeding shall be designated as the complainant. Any party who seeks to be heard and whose interests are adverse to the petitioner's or the complainant's shall be designated as the respondent.
- b) Incorrect designation of a party is not a ground for dismissal but the name of a party may be corrected at any time.
- c) If a complete determination of ~~an~~ controversy cannot be had without the presence of other parties, the Hearing Officer may direct them to be made parties. The Hearing Officer may allow the intervention of other persons or entities with an interest in the matter on any side of the controversy or in aid of the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.206 Notice of Hearing

- a) In cases in which a hearing is held pursuant to Section 3730.202(a), (c) or (d), the commencement of the hearing shall be within 90 days after the date on which the application for allocation or petition for modification of allocation was received by the Department unless otherwise ordered by the Hearing Officer, or within 60 days after an order for an emergency allocation was entered by the Department.

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The Department shall give notice of hearing in these cases as follows:

- 1) to all permittees; petitioners; the Counties of Cook, DuPage, Kane, ~~Kendall~~, Lake, Will, and McHenry; the City of Chicago; the Metropolitan Water Reclamation District; the Illinois Environmental Protection Agency; and the ~~Chicago Metropolitan Agency for Planning; Northeastern Illinois Planning Commission~~ and
 - 2) by publication not less than twice in newspapers of general circulation in the immediate and remote ~~areas that~~~~area(s) which~~ may be affected by diversions of Lake Michigan waters, such publications to be no longer than one week apart, and the hearing to be held within 10 days following date of last publication.;
- b) In cases in which a hearing is held pursuant to Section 3730.202(b), ~~complainant~~~~complainant(s)~~ and ~~respondents~~~~respondent(s)~~ shall receive notice by certified mail of the time and place of the hearing no less than 20 days before the hearing is held. In addition, ~~complainant~~~~complainant(s)~~ must provide proof of service of the complaint on each respondent showing that service was completed in compliance with Section 3730.105 no less than 20 days before the hearing is held.
- c) The Hearing Officer shall make available to any person copies of applications, petitions, or complaints at the time the hearing date is announced.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.208 Discovery

- a) Hearing Officer
- 1) The Hearing Officer may order production of documents or things, depositions, or interrogatories in his ~~or her~~ discretion upon the written request of any party or by the Department on its own motion, either by an order directed to a party or by subpoena directed to a non-party, ~~where~~:
 - A) ~~when~~ necessary to expedite the proceedings;

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- B) to ensure a clear or concise record;
 - C) to ensure a fair opportunity to prepare for the hearing; or
 - D) to avoid surprise at the hearing.
- 2) The Hearing Officer shall restrict such discovery ~~when~~~~where~~ necessary to prevent undue delay or harassment.
- b) The Hearing Officer may in his ~~or her~~ discretion order the following discovery upon written request of any party:
- 1) a list of witnesses who are known to the party, who have knowledge of the occurrence, or other relevant facts;
 - 2) a list of expert witnesses who may be called at the hearing, which shall be submitted to all parties prior to the hearing; and
 - 3) reasonable inspection of the premises by experts.
- c) Any person, including a party, who is deposed, interrogated or required to submit documents or things under ~~this Section~~~~these rules~~ may be examined regarding any matter, not privileged, ~~that~~~~which~~ is relevant to the subject matter of the pending case, or ~~that~~~~which~~ may lead to the discovery of ~~such~~ relevant information.
- d) All depositions and interrogatories taken pursuant to this ~~Section~~~~rule~~ shall be for purposes of discovery only, except as ~~herein~~ provided ~~in this Section~~. ~~The~~~~Such~~ depositions and interrogatories may be used for purposes of impeachment and as admissions of the deposed or interrogated party. Upon application to the Hearing Officer either before or after the taking of ~~depositions~~~~such deposition~~ or interrogatories and upon showing that, at the time of the hearing, the party deposed or interrogated will not be available to participate in the hearing because of death, age, sickness, infirmity, absence from the Northeastern Illinois Metropolitan Region (specifically the counties of Cook, DuPage, Kane, Kendall, Lake, McHenry and Will), or other exceptional circumstances, the Hearing Officer may order that the deposition or interrogatories be used as evidence in the hearing.

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- e) Upon transcription of the deposition, it shall be made available to the deponent for examination and signature, unless signature is waived both by ~~the deponent~~ and by the parties who are represented at the deposition. Any changes in form or substance ~~that~~ which the deponent desires to make shall be entered upon the deposition by the court reporter taking the same with a statement of the reasons given by the deponent making them. The deposition shall then be signed by the deponent unless the deponent is ill or cannot be found or refuses to sign, in which event the court reporter's certification shall state the reason for the omission of the signature.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.213 Official Record

- a) The ~~petitioner or complainant, as applicable, Department~~ shall provide a court reporter who shall record and transcribe a stenographic record of all hearings and will provide for such copies of the transcript as the Department may require for its own purposes. ~~For hearings commencing after May 12 1980, the obligation to provide a record shall be the petitioner's.~~
- b) After the transcript is filed, the Hearing Officer shall entertain requests for corrections and enter corrections either on the record of a subsequent hearing or in an Order.
- c) The transcript of the hearing, all pleadings, all exhibits entered into evidence, and any documents officially noticed pursuant to Section 3730.211(a)(5) shall constitute the record.
- d) Transcripts of hearings conducted by the Department shall be kept in the custody of the Department and will be open for inspection during the regular office hours. Copies may be made at the expense of the interested party.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART C: ALLOCATION RULES

Section 3730.301 Allocation Permits

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- a) No regional organization, municipality, political subdivision, agency or instrumentality, or any other organization, association or individual desiring to use water from Lake Michigan ~~that~~~~which~~ is subject to allocation under the Act shall divert or use any such water after July 1, 1977, unless it has previously obtained from the Department a valid allocation permit.
- b) The Department shall issue an allocation permit to any applicant ~~which~~ it determines to be entitled to an allocation of water from the Lake Michigan diversion according to the criteria set out in this Subpart. The permit shall state the allocation ~~which~~ the applicant is allowed, the starting date and duration of the permitted allocation, and such conditions as specified in Sections 3730.307 and 3730.309 as the Department may require the applicant to comply with in order to receive or to continue to receive its allocated share of the Lake Michigan diversion. Allocations for residential, industrial and commercial uses will be limited for each annual accounting period. Allocations for navigational makeup and discretionary dilution will be limited by a running average over five annual accounting periods. The Department will hold an amount of Lake Michigan water in reserve Allocations for lockage and leakage ~~that~~ will be based on ~~limited by~~ a running average over 40 annual accounting periods.
- c) If, over a five-year running period, a permittee appropriates water in amounts ~~which are~~ greater than 105% of its allocation for that period or if it appropriates in excess of ~~115%~~ percent of its allocation in any one annual accounting period, the Department ~~may~~ shall issue a notice of violation of the allocation permit.
- d) If a permittee commits a permit violation under ~~subsections~~ subsections (a), (b) or (c) or if it fails to observe the conditions attached to its allocation permit, the Department ~~may~~ shall issue a notice of violation. Upon hearing and determination of ~~said~~ violation, the permittee shall be deemed to have failed to obey an order made by the Department and may be subject to a fine of not less than \$1,000 ~~and~~ or not more than \$10,000 to be recovered in the name of the People of the State of Illinois in any court of competent jurisdiction. Each day in which the prohibited activity continues shall constitute a new and separate violation of a Department order.
- e) If, over a five-year running period, a permittee appropriates water in amounts ~~which are~~ less than 90% of its allocation for the period, any entity or the Department, on its own motion, may initiate proceedings for a modification

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according to Sections 3730.204(c) and 3730.310. Any ~~such~~ modification shall be preceded by notice as provided in Section 3730.206, and a hearing shall be held in conformance with Subpart B.

- f) If a permittee, because of physical limitations, cannot use an allocation, the Department may allocate this water, after notice and a hearing, to another use during an accounting period or hold it in reserve for future use without prejudice to any permittee's allocation in succeeding accounting periods.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.302 Application

An application for an allocation permit shall contain the following information, to be filed on forms provided by the Department:

- a) The name and location of the applicant;
- b) A description of the geographic area ~~that~~which the applicant supplies or intends to supply with water, and the number of people residing within that area;
- c) An enumeration of the uses to which the allocation is intended to be put, including the proportion of the allocation ~~that~~which goes to each use;
- d) A description of all proposed and existing systems for the storage, treatment, transportation and distribution of water and the location of any discharge of wastewater effluent within the area ~~which~~ the applicant intends to supply with water from the allocation, including the location, dates of construction, and major improvements of wells;
- e) A description of all present sources of water supply, within the area described ~~under subsection pursuant to Section 3730.302~~(b), including a breakdown stating the amounts and quality of water currently available and the quantity prospectively available from each source;
- f) A statement of anticipated future needs during the period for which application for a water allocation is being made, including projected land use changes and population changes and per capita use;

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- g) A description of the applicant's current and proposed water conservation programs, measures and ordinances that promote the efficient use of its water supply;
- h) Such other information relevant to the Lake Michigan allocation as the Department deems appropriate.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.303 Classification of Water Users

- a) Applicants will be divided into broad categories determined by water use. The categories in order of descending priorities are: ~~Categories IA, and IB, IIA, IIB having the same priority, Categories IIA and IIB having the same priority, and Category III.~~
- 1) Category IA – Applicants whose primary water needs are residential, commercial or industrial and whose future or continued use of Lake Michigan water is the most economical source of supply.
 - 2) Category IB – Applicants whose primary water demands are residential, commercial and industrial and whose use of Lake Michigan water would reduce the regional use of the deep aquifer.
 - 3) Category IIA – Applicants whose primary water demands are for the minimum flows necessary to meet navigation requirements and minimum discretionary dilution flows necessary to maintain the Chicago Area Waterway System Sanitary and Ship Canal in a reasonably satisfactory sanitary condition.
 - 43) Category IIBHA – Applicants whose water demands are for the minimum discretionary dilution flows necessary to meet water quality standards in the Chicago Area Waterway System Sanitary and Ship Canal.

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- 4) ~~Category IIB— Applicants whose primary water demands are residential, commercial and industrial and whose use of Lake Michigan water would reduce regional use of the deep aquifer.~~
 - 5) Category III – Applicants whose water demands do not fall into Category IA, IB, IIA, or IIB.
- b) In determining the need for Category~~priorities within Categories~~ IA and IB allocations, the Department will consider the following items:
- 1) Adequacy of supply from sources other than Lake Michigan.
 - 2) Economics of alternative supplies.
 - 3) ~~A limitation of 320 cubic feet of water per second for discretionary dilution for water quality purposes in the Sanitary and Ship Canal.~~
 - 4) ~~The need to maintain the Sanitary and Ship Canal in a reasonably satisfactory sanitary condition.~~
 - 35) For new applicants~~users or applicants who have requested an increase over the allocation of Lake Michigan water which these applicants had on July 1, 1980~~, priority will be given to allocations for domestic purposes.
 - 4) For new applicants, allocations of Lake Michigan water will be made with the goal of reducing withdrawals from the Cambrian-Ordovician Aquifer (deep aquifer).
 - 6) ~~The need to meet navigation requirements in the Sanitary and Ship Canal.~~
 - 7) ~~The requirement that the Department shall not allocate less than 320 cubic feet per second for discretionary dilution for water quality purposes in the Sanitary and Ship Canal before October 1, 2000, unless a modification is ordered based on the criteria stated in Section 3730.310(b)(4).~~
- c) In determining the need for priorities within Categories IIA and IIB, the

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Department will consider the following items:

- 1) A limitation of ~~270~~³²⁰ cubic feet per second for discretionary dilution for water quality purposes in the Chicago Area Waterway System~~Sanitary and Ship Canal~~.
 - 2) The need to meet navigation requirements in the Chicago Area Waterway System~~The requirement that the Department shall not allocate less than 320 cubic feet per second for discretionary dilution for water quality purposes in the Sanitary and Ship Canal before October 1, 2000, unless a modification is ordered based on the criteria stated in Section 3730.310(b)(4).~~
 - 3) The minimum discretionary diversion needed~~need~~ to keep~~meet~~ water quality ~~standards in the Chicago Area Waterway System in a reasonable satisfactory sanitary condition~~Sanitary and Ship Canal.
 - 4) ~~For new users or applicants who have requested an increase over the allocation of Lake Michigan water these applicants had on July 1, 1980, allocations of Lake Michigan water will be made with the goal of reducing withdrawals from the Cambrian-Ordovician Aquifer.~~
- d) Category III applicants do not qualify for an allocation of water from Lake Michigan.
- e) The Department will normally make allocations to meet the full water needs of Category IA and IB applicants~~any category~~ as determined by the Department before any water is allocated to applicants in Category IIA and IIB~~categories of the lower priority~~.
- f) In determining the amount of water available for allocations to Categories IA, IB, IIA and IIB~~I, H, & III~~, the Department will consider the amount of water that must be reserved for storm water runoff, lockage and leakage and a reserve for future increases in demands and storm water runoff.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.304 Water Needs Criteria.

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The Department will determine anticipated water needs for each applicant. The Department will take into consideration in making ~~that such~~ determination the population of the area to be served, projected population growth, current and projected per capita consumption within the area, the nature and extent of industrial uses (including a consideration of typical requirements for similar industries), municipal and hydrant uses (public facilities, park upkeep, fire protection), implementation of conservation practices, and the reduction of ~~non-revenue water unaccounted-for flows~~ as required by ~~this Section these rules~~.

- a) Conservation practices ~~that which~~ will be considered with respect to applicants in Categories IA and ~~IBHB~~ include the extent of metering, the provision of building codes for water efficient equipment, ordinances that promote the efficient use of water for lawn sprinkling and other outside uses, rate structures ~~that which~~ encourage conservation, past record of enforcement of water saving ordinances, expenditures for maintenance and repair of water distribution systems, and implementation of specific ground water conservation levels of usage recommended by State or regional planning agencies. The Director may establish maximum reasonable per capita consumption rates for each user based upon either an evaluation of the relative proportion of industrial, commercial and residential users served by the permittee or the efficiency of the permittee's water distribution system, or both. Applicants in Categories IA and IB shall limit non-revenue water so that it is less than 12% of net annual pumpage in Water Year 2015, decreasing to no more than 10% by Water Year 2019 and all years thereafter. Applicants whose non-revenue water exceeds the non-revenue thresholds (12% in Water Year 2015, decreasing to 10% in Water Year 2019) shall submit a water system improvement plan that outlines the actions the applicant plans to undertake, along with a timeframe, to reduce non-revenue water to less than the thresholds outlined in this subsection. The Department may grant a waiver to the requirement to submit a water system improvement plan to an applicant whose non-revenue water exceeds the thresholds if it can be shown that the reason for exceeding the non-revenue water threshold is due to metered, but unbilled, consumption or to authorized, unmetered, unbilled consumption when the quantity can be determined through acceptable engineering practices. The Department will consider this information in determining proper allocation amounts.~~Unaccounted-for flows for applicants in Categories IA and IB shall not exceed 12% in 1981 decreasing to 8% in 1986 and for all years thereafter except as provided in Section 3730.307(b). The percentages stated in this Section shall be based on net annual pumpage.~~

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- b) Conservation practices ~~that~~~~which~~ will be considered with respect to applicants in Categories ~~IB and~~ IIA ~~and IIB~~ include improved and more accurate measurement and accounting procedures, improved treatment of all ~~wastewater~~~~waste~~ flows, elimination of untreated combined sewer bypass flows, ~~expanded~~~~reasonable~~ use of ~~instream~~-aeration ~~facilities~~, ~~impoundment or other methods to provide for the reuse of lockage water, regulation of lock usage~~, implementation of navigational and storm response operations, and procedures to minimize Lake Michigan diversion and implementation of effective programs of leak prevention, detection and correction.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.306 Transfer of Water Use Rights

- a) A user may not transfer any portion of its allocation of Lake Michigan water to another user unless the transferor has satisfied all of the conditions precedent attached to its water allocation permit and the Department has approved the transfer according to the procedures in ~~subsection (b) or (c)~~~~subparagraph (b) or (e) of this Section~~.
- b) All requests for transfers, except those described in ~~subsections~~~~subparagraph (c) of this Section~~, shall be processed as petitions for modification of the allocation permits of the transferor and the transferee according to Sections 3730.204(c) and 3730.310. These requests shall not be approved or disapproved unless notice has been given as provided in Section 3730.206 and a hearing has been held in conformance with Subpart B ~~of this Part~~.
- c) Any request for a transfer ~~that~~~~which~~ includes the following statements may be approved by the Department after 30 days notice to all permittees and an opportunity for hearing has been provided:
- 1) The transferor must have satisfied all of the conditions ~~precedent~~~~preendent~~ attached to its water allocation permit.
 - 2) The transferee must be a duly constituted regional water supply organization.

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- 3) ~~The~~ transferor and transferee must clearly indicate that the transferee assumes responsibility for compliance by the transferor with the requirements of Sections 3730.307 and 3730.309.
 - 4) The requested transfer must comprise 100% of the transferor's allocation.
 - 5) The transferred allocation must be used solely by the transferor.
- d) Transfers to another user of any part of an allocation, except those transfers described in ~~subsection~~~~subparagraph~~ (c) ~~of this Section~~, will be considered prima evidence of a reduction in the transferor's water use needs equivalent in size to the transferred allocation when the transferor applies for a renewal permit. However, evidence that an applicant has obtained additional Lake Michigan water from other users beyond that amount originally allocated to the transferee will not be sufficient to establish a prima facie case that the transferee-applicant's original allocation should be increased by a corresponding amount.
- e) All transfers terminate upon the expiration of the transferor's allocation permit.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.307 Conservation Practices and Other Permit Conditions

- a) The Department shall condition allocations within a user category upon required conservation practices for each user category as specified in subsections (b) and (c). Failure by any permittee to meet the conservation requirements applicable to it within a reasonable period of time will, upon notice, hearing and determination of ~~the~~~~such~~ failure, constitutes a violation of a Department order.
- b) Permittees in Categories IA and IB shall limit non-revenue water so that it is less than 12% of net annual pumpage (system input volume) in Water Year 2015, decreasing to no more than 10% by Water Year 2019 and all years thereafter. Permittees whose non-revenue water exceeds the non-revenue thresholds (12% in Water Year 2015, decreasing to 10% by Water Year 2019) shall submit a water system improvement plan that outlines the actions the permittee plans to undertake, along with a timeframe, to reduce non-revenue water to less than the thresholds outlined in this subsection. The Department may grant a waiver to the requirements to submit a water system improvement plan to a permittee whose

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non-revenue water exceeds the thresholds if it can be shown that the reason for exceeding the non-revenue water threshold is due to metered, but unbilled, consumption or to authorized, unmetered, unbilled consumption when the quantity can be determined through acceptable engineering practices. The Department recognizes that actions necessary to reduce water losses can require significant capital expenditures and a lengthy timeframe, and that communities face other pressing infrastructure needs, and will take this into account in reviewing and approving water system improvement plans. As a condition of receiving an allocation of Lake Michigan water, all permittees will agree to submit to the Department proposals designed to reduce or eliminate wasteful water use and to reduce unaccounted for flows to 8% or less, based on net annual pumpage, and procedures used to determine efficiency of water metering or accounting in permittee's system.

- c) The Department shall require evidence of adoptions by the permittee of the following conservation practices as applicable to the particular user:
 - 1) Leakage monitoring and correction for storage, transmission and distribution systems.
 - 2) Metering of all new construction. When practicable and feasible, the Department recommends sub-metering in new multi-family buildings.
 - 3) Metering of existing non-metered ~~nonmetered~~ services as part of any major remodeling.
 - 4) The adoption of ordinances requiring which require that new and replacement plumbing fixtures be a labeled WaterSense product, as specified by USEPA. If no USEPA Water Sense labeled products exist for a type of plumbing fixture, the Department recommends that permittees utilize Subpart N (Sustainable Plumbing Systems) of the Illinois Plumbing Code (77 Ill. Adm. Code 890). installation of the following water efficient plumbing fixtures based on a pressure at the fixture of 40 to 50 psi in all new construction and in all repair or replacement of fixtures or trim:

<u>Fixtures</u>	<u>Maximum Flow</u>
Water Closets, tank type	3.5 gal per flush

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Water Closets, flushometer type	3.0 gal per flush
Urinals, tank type	3.0 gal per flush
Urinals, flushometer type	3.0 gal per flush
Shower Heads	3.0 GPM
Lavatory, sink faucets	3.0 GPM

- 5) The adoption of ordinances ~~requiring which require~~ the installation of closed system air conditioning in all new construction and in all remodeling.
- 6) The adoption of ordinances ~~requiring which require~~ that all lavatories for public use in new construction or remodeling be equipped with metering or self-closing faucets.
- 7) The adoption of ordinances ~~requiring which require~~ that all newly constructed or remodeled car wash installations be equipped with a water recycling system.
- 8) The adoption of ordinances ~~that which~~ restrict non-essential outside water uses to prevent excessive, wasteful use. ~~These~~As a minimum, these restrictions shall provide that unrestricted lawn sprinkling will not be allowed from May 15 ~~through~~– September 15 of each year by requiring, as a minimum, that lawn sprinkling shall not occur on consecutive days nor shall any lawn sprinkling occur during at least a 6 hour period in the middle of the day (i.e., 10 a.m. through 4 p.m., noon to 6 p.m.) when evapotranspiration is at its highest. New lawns (less than 3 months old) may be exempted from this provision. In addition, new/replacement sprinkler systems shall be equipped with a WaterSense labeled irrigation controller.
- 9) Development and implementation of public programs to encourage ~~efficient~~reduced water use.
- 10) Installation of facilities and implementation of programs to reduce to a reasonable minimum, and to accurately account for, water used for navigational and discretionary diversion, leakage, and leakage purposes; and pollution treatment, control or abatement purposes.

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- d) Within 90 days ~~after~~ receipt of an allocation permit, each permittee ~~that~~~~which~~ uses any water from deep aquifer pumpage shall submit and implement a phased program designed to end this practice, other than for emergency or standby use, within five years ~~after~~ the receipt of Lake Michigan water. New applicants may petition the Department for a waiver of this requirement, which the Department may grant if it determines that the applicant has a legitimate legal or practical basis for its inability to comply with this requirement and when a partial allocation of Lake Michigan water will result in reduced pumpage from the deep aquifer. Existing permittees are not eligible to petition the Department for a waiver of this requirement.
- e) As a condition of receiving an allocation of Lake Michigan water, all permittees will limit unmetered hydrant uses to 1% or less of net annual pumpage in each annual accounting period. The Department may grant an exception to this requirement if it can be shown by the user that this requirement can't be met. In determining the merits of a request for an exception, the Department considers such factors as engineering studies of hydrant uses and unusual circumstances during an annual accounting period.
- f) The Department recommends that all permittees adopt water rate structures based on metered water use and that water rate structures be developed ~~that~~~~which~~ will discourage excessive water use. The Department also recommends that water rates reflect the full cost of water, including the long term cost to properly maintain and operate the water supply distribution system in such a manner as to keep system losses to a minimum.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.309 Reporting Requirements

- a) Within 60 days ~~after~~ the end of each accounting period, all permittees shall furnish the following information and such other information relevant to the Lake Michigan allocation as the Department may require on forms provided by the Department:
- 1) Total water use from all sources for the accounting year and the percentage of water distributed through metered services;

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- 2) Average daily water use by month from all sources for the accounting year;
- 3) Maximum and minimum daily pumpage from all sources for the accounting year and the dates of these events;
- 4) Total pumpage from Lake Michigan, shallow aquifer wells, and deep aquifer wells, including the number and location of each well, and the percentage of total water use for the accounting year from each source;
- 5) Individual well production rates for the accounting year, including well numbers, average pumping rates, and average number of hours pumped per day;
- 6) For each well, a list of all parameters ~~that~~which exceed the standards in 35 Ill. Adm. Code 601 ~~through~~ -607;
- 7) A list of which wells, if any, interfere with each other during simultaneous pumping;
- 8) A description of any problems anticipated from any well supply during the next accounting period;
- 9) The amount and percentage of water from all sources for the accounting period used for each of the following purposes:
 - A) Residential,
 - B) Industrial and commercial,
 - C) Municipal ~~use~~,
 - D) Firefighting and training,
 - E) Water main flushing,
 - F) Sewer flushing,

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- G) Street cleaning,
 - H) Public and private construction,
 - I) Leakage,
 - J) Lockage,
 - K) Storm water runoff,
 - L) Navigational makeup,
 - M) Discretionary diversion,
 - N) Unmetered services,
 - O) Non-revenue water~~Unaccounted for~~, and
 - ~~P) Unavoidable leakage, and~~
 - PQ) Other identified uses;
- 10) Summaries of the results and recommendations of any leak surveys conducted in the accounting period;
 - 11) Amounts transferred and sources of all water sold or otherwise provided to any other named distribution system during the accounting period;
 - 12) A copy of the current water rates for all consumers, including an indication whether each water rate structure is declining, flat, or increasing; and
 - 13) The name, address and telephone number of the person the Department should contact if further information is needed.
- b) Within 30 days ~~after~~ the end of each month, all permittees with an intake structure on Lake Michigan shall state the daily pumpage rates for Lake Michigan water, the monthly average pumpage rate, the average daily supply transferred to

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other named entities, and such other information relevant to the Lake Michigan allocation as the Department may reasonably require on forms provided by the Department.

- c) Within 30 days ~~after~~ the end of each month, all permittees who are the first Illinois users of water diverted from Lake Michigan outside Illinois shall state the daily pumpage rates for Lake Michigan water, the monthly average pumpage rate, the average daily supply transferred to other entities, and such other information relevant to the Lake Michigan allocation as the Department may reasonably require on forms provided by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 3730.310 Petitions for Modification

- a) Petitions for ~~modification~~ **Modification** of an allocation permit may be filed by any entity at any time. ~~Petitions~~ **Petitions** for modification must comply with Section 3730.204(c). If the Department finds that any such petition is supported by an adequate statement of reasons, is not plainly devoid of merit or frivolous, and does not deal with a subject on which a hearing has been held within the preceding six months, a hearing shall be held pursuant to Sections 3730.201 through 3730.215. Copies of each petition for modification shall be served upon all parties to the allocation proceedings. A copy of the service list may be obtained from the Department.
- b) Bases for modification of an allocation permit include, but are not limited to:
- 1) Evidence of a substantial change in circumstances ~~that~~ **which** results in a change in water needs of the entity; ~~or~~
 - 2) Violation of a permit condition and/or failure or neglect to properly utilize an allocation; ~~or~~
 - 3) Determination by the Department that a total reallocation is necessary to best utilize the Lake Michigan diversion to preserve the health, safety and welfare of the Northeastern Illinois Metropolitan Region; or
 - 4) Notification received by the Department from the Illinois Environmental

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Protection Agency stating that pollution abatement facilities affecting the water quality of the Chicago Area Waterway System Sanitary and Ship Canal have become operational or that standards affecting the water quality of the Chicago Area Waterway System Sanitary and Ship Canal have been changed.

- c) In the Department's determination of the outcome of a modification proceeding, the Department shall determine the effect of a modification on any outstanding securities, debt obligations or contractual obligations of any permittee whose allocation is the subject of the modification proceeding and shall endeavor to avoid any material adverse effect on these obligations.
- d) The Department may, in its discretion, schedule a hearing upon any petition without regard to the existence of the factors listed in subsection subparagraph (b) of this Section if it deems holding the hearing to be in the public interest.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.3220 Proposed Action:
Amend
- 4) Statutory Authority: 35 ILCS 5/303
- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking provides guidance on the sourcing of nonbusiness income from lottery prices and unemployment compensation under recent amendments to the Illinois Income Tax Act.

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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
100.2110	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2120	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2160	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2185	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2190	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2480	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2655	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2657	New Section	37 Ill. Reg. 19082, December 2, 2013
100.2060	New Section	38 Ill. Reg. 832, January 10, 2014
100.2198	Amendment	38 Ill. Reg. 3482, February 7, 2014
100.7380	New Section	38 Ill. Reg. 3482, February 7, 2014

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100.2171 New Section 38 Ill. Reg. 5148, February 21, 2014

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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

217/782-7055

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses will receive guidance on the sourcing of nonbusiness income from lottery prizes and unemployment compensation under recent amendments to the Illinois Income Tax Act.
- 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: January 2014

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

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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)

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SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
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

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- 100.2350 After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
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

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Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

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 J: 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 K: 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 L: 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 M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)

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- 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)
- 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
- 100.3373 Sales Factor for Publishing
- 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))
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- 100.9800 Letter Ruling Procedures

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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].

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

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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 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

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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; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. _____, effective _____.

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

Section 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

- a) In general. IITA Section ~~303~~^{303.1303} provides rules for the allocation by any person other than a resident of Illinois of any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, together with any item of deduction directly allocable thereto, to the extent such item constitutes nonbusiness income. For the tests as to whether any such item constitutes business or nonbusiness income, see Section 100.3010 of this Part.
- b) Capital gains and losses
 - 1) Real property. Capital gains and losses from sales or exchanges of real property are allocated to Illinois if the property is located in Illinois. (IITA Section 303(b)(1)) Economic interests in minerals in place, such as oil or gas, are real property under IITA Section 303. Examples of such interests are royalties, overriding royalties, participating interests, production payments and working interests.
 - 2) Tangible personal property. Capital gains and losses from sales or exchanges of tangible personal property are allocated to Illinois, if at the time of the sale or exchange:
 - A) the property has its situs in Illinois; or
 - B) the taxpayer has its commercial domicile in Illinois and is not taxable in the state in which the property has its situs. (IITA

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Section 303(b)(2) For the tests of taxability in another state and commercial domicile, see Sections 100.3200 and 100.3210 of this Part.

- 3) Intangible personal property. Capital gains and losses from sales or exchanges of intangible personal property are allocated to Illinois if the taxpayer has its commercial domicile in Illinois at the time of the sale or exchange. IITA Section 303(b)(3) For the tests of commercial domicile, see Section 100.3210 of this Part.

c) Rents and royalties

- 1) Real property. Rents and royalties from real property are allocated to Illinois if the property is located in Illinois. IITA Section 303(c)(1) Economic interests in minerals in place, such as oil or gas, are real property under IITA Section 303. Examples of such interests are royalties, overriding royalties, participating interests, production payments and working interests.
- 2) Tangible personal property. Rents and royalties from tangible personal property are allocated to Illinois:
- A) if and to the extent that the property is utilized in Illinois; or
- B) in their entirety if, at the time such rents or royalties are paid or accrued, the taxpayer has its commercial domicile in Illinois and was not organized under the laws of or is not taxable with respect to such rents or royalties in the state in which the property is utilized. IITA Section 303(c)(2) For the tests of taxability in another state and commercial domicile, see Sections 100.3200 and 100.3210 of this Part. The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property

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during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property is located at the time the rental or royalty payor obtains possession.

- 3) Examples. Section 100.3220(c) ~~of this Part~~ may be illustrated by the following examples:
- A) Example A. A is a resident of Missouri. A purchases an interest in oil royalty under an oil and gas lease in Illinois. During 1970, A receives \$2,000 in royalty payments. Under Section 100.3010(c)(3)(B) ~~of this Part~~, the royalty income is presumed to be nonbusiness income. As such it is allocated to Illinois, being derived from real property located in Illinois.
- B) Example B. B is a resident of Iowa, with a summer home in Illinois. B owns a sailboat which he keeps in Iowa during the winter months and tows to Illinois by trailer for use in the summer. During 1970, B is unable to visit his summer home, and rents his sailboat for the months of July through September to C, the owner of the adjoining property in Illinois. Under Section 100.3010(c)(3)(B) ~~of this Part~~, the rent is presumed to be nonbusiness income. C takes the boat from Iowa to Illinois and returns it to B in Iowa on October 1, 1970. Although the boat is physically located in Iowa during the months of January through June and October through December, the rental period is only the months of July through September. During the rental period, the boat is located in Illinois. Hence, it is utilized in Illinois, and, accordingly, the rental income is allocated to Illinois.
- C) Example C. The facts are the same as in Example ~~(B)~~, except that B rents the boat through a want ad and does not know C, nor where he uses the boat during the months of July through September. In such case, since C takes possession of the boat in Iowa, it is utilized in Iowa and, accordingly, the rental income is not allocated to Illinois.
- d) Patent and copyright royalties

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- 1) Allocation. Patent and copyright royalties are allocated to Illinois:
 - A) if and to the extent that the patent or copyright is utilized by the payor of the royalties in Illinois; or
 - B) if and to the extent that the patent or copyright is utilized by the payor of the royalties in a state in which the taxpayer is not taxable with respect to such royalties and, at the time such royalties are paid or accrued, the taxpayer has its commercial domicile in Illinois. [\(IITA Section 303\(d\)\(1\)\)](#) For the tests of taxability in another state and commercial domicile, see Sections 100.3200 and 100.3210 of this Part.
- 2) Utilization
 - A) Patents. A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures of the royalty payor do not reflect states of utilization, the patent is utilized in Illinois if the taxpayer has its commercial domicile in Illinois. [\(IITA Section 303\(d\)\(2\)\(A\)\)](#)
 - B) Copyrights. A copyright is utilized in a state to the extent that printing or other publication originates in that state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures of the royalty payor do not reflect states of utilization, the copyright is utilized in Illinois if the taxpayer has its commercial domicile in Illinois. [\(IITA Section 303\(d\)\(2\)\(B\)\)](#)
- 3) Example. A, a resident of New York, is not in the business of being an inventor, but owns a patent on a single invention, which he licenses to a manufacturer of automatic garage door openers. Royalties are a percentage of the manufacturer's sales. The manufacturer has plants situated in Missouri, Illinois and Indiana. Under Section 100.3050(c)(2)(B) ~~of this~~

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~~Part~~, the royalty income is presumed to be nonbusiness income. If A's royalties can be allocated to Missouri, Illinois and Indiana on the basis of sales from the manufacturer's plants in each of those states, those royalties attributable to sales from the Illinois plant are allocated to Illinois. If, however, the manufacturer's accounting procedures do not reflect sales from the specific plants, but royalties are paid on the basis of total sales not broken down by plant, then, since A is not a resident of Illinois, the patent is not utilized in Illinois and none of the royalties are allocated to Illinois.

- e) Taxability in another state. For the test of taxability in another state, see Section 100.3200 ~~of this Part~~.
- f) Interest and dividends. For allocation of interest and dividends, see Section 100.3300(b)(2) ~~of this Part~~.
- g) Illinois Lottery prizes. Prizes awarded under the Illinois Lottery Law [20 ILCS 1605] are allocable to this State. Payments received in taxable years ending on or after December 31, 2013, from the assignment of a prize under Section 13.1 of the Illinois Lottery Law, are allocable to this State. (ITA Section 303(e))
- h) Unemployment compensation. Unemployment compensation paid by this State is allocated to this State. (ITA Section 303(e-5))

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
240.1530	Amendment
240.1531	New Section
- 4) Statutory Authority: Implementing 305 ILCS 5/5-5(g) of the Save Medicaid Access and Resources Together Act (Public Act 97-689), and authorized by 20 ILCS 105/4.01(11) and 4.02 of the Illinois Act on the Aging
- 5) Effective Date of Rule: February 21, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 10738; July 19, 2013
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version:

The other changes made to this rulemaking were non-substantive, grammatical, and editorial at the recommendation of the Joint Committee on Administrative Rules.

In the Table of Contents, corrected the header for Section 240.2050 to correspond with changes adopted December 12, 2008.

In subsection 240.1530(f)(1), added language to clarify that electronic visit verification (EVV) will also allow in-home service providers to “verify the work performed by all homecare aides”.

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In subsection 240.1530(f)(2), changed the language so it reads as a cross-reference to a new Section 240.1531, which contains the requirements for EVV systems that appear in the standards posted on the Department's website.

In subsection 240.1530(g), replaced a reference to "clients" with "participants".

In subsections 240.1530(i) and 240.1530(i)(1), deleted references to "applicants".

In subsection 240.1530(i)(2), replaced reference to "an applicant/" with "a".

In response to a request made by JCAR, added a new Section 240.1531 during the Second Notice Period, which contains the requirements for EVV systems of in-home service provider agencies under the Community Care Program. This information addresses functional capacity, billing integration and data sharing, data storage and security, electronic reporting interface, and disaster recovery in the standards posted on the Department's website.

- 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 rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register citation:</u>
240.120	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.237	New Section	38 Ill. Reg. 1408, January 17, 2014
240.741	New Section	38 Ill. Reg. 1408, January 17, 2014
240.945	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.1505	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.1543	New Section	38 Ill. Reg. 1408, January 17, 2014
240.1544	New Section	38 Ill. Reg. 1408, January 17, 2014
240.1600	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.1650	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.1955	Amendment	38 Ill. Reg. 1408, January 17, 2014
240.1957	New Section	38 Ill. Reg. 1408, January 17, 2014

- 15) Summary and Purpose of Rulemaking: This rulemaking implements Public Act 97-689

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which requires in-home service provider agencies to maintain electronic visit verification (EVV), based on global positioning systems or other cost effective technology, for monitoring and verifying the work schedules of, and the work performed by, all homecare aides under the Community Care Program. Provider agencies had previously only been encouraged to explore available technology for automation of timekeeping systems by the Department.

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

Karen Alice Kloppe
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271

217/785-3346

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

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240
COMMUNITY CARE PROGRAM

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240.100	Community Care Program
240.110	Department Prerogative
240.120	Services Provided
240.130	Maintenance of Effort
240.140	Program Limitations
240.150	Completed Applications Prior to August 1, 1982 (Repealed)
240.160	Definitions

SUBPART B: SERVICE DEFINITIONS

Section	
240.210	In-home Service
240.220	Chore-Housekeeping Service (Repealed)
240.230	Adult Day Service
240.235	Emergency Home Response Service
240.240	Information and Referral
240.250	Demonstration/Research Projects
240.260	Case Management Service
240.270	Alternative Provider
240.280	Individual Provider

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Section	
240.300	Applicant/Client Rights and Responsibilities
240.310	Right to Apply
240.320	Nondiscrimination
240.330	Freedom of Choice
240.340	Confidentiality/Safeguarding of Case Information

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- 240.350 Applicant/Client/Authorized Representative Cooperation
- 240.360 Reporting Changes
- 240.370 Voluntary Repayment

SUBPART D: APPEALS

- Section
- 240.400 Appeals and Fair Hearings
- 240.405 Representation
- 240.410 When the Appeal May Be Filed
- 240.415 What May Be Appealed
- 240.420 Group Appeals
- 240.425 Informal Review
- 240.430 Informal Review Findings
- 240.435 Withdrawing an Appeal
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- 240.440 Examining Department Records
- 240.445 Hearing Officer
- 240.450 The Hearing
- 240.451 Conduct of Hearing
- 240.455 Continuance of the Hearing
- 240.460 Postponement
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- 240.470 Rescheduling the Appeal Hearing
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- 240.480 The Appeal Decision
- 240.485 Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

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- 240.510 Application for Community Care Program
- 240.520 Who May Make Application
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240.1396	Payment for Services (Repealed)
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240.1505	Administrative Requirements for Certification
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240.1520	Provider Responsibilities
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240.1535	In-home Service Staff Positions, Qualifications, Training and Responsibilities
240.1540	General Chore-Housekeeping Staffing Requirements (Repealed)
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240.1550	Standard Requirements for Adult Day Service Providers
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Section

240.1600	Provider Agency Certification
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240.1607	Standard CCP Provider Agreement
240.1610	Procurement Cycle for Provider Services (Repealed)
240.1615 <u>250.1615</u>	Provider Initiated Service Area Modifications
240.1620	Issuance of Provider Proposal and Guidelines (Repealed)
240.1625	Content of Provider Proposal and Guidelines (Repealed)
240.1630	Criteria for Number of Provider Contracts Awarded (Repealed)
240.1635	Evaluation of Provider Proposals (Repealed)
240.1640	Determination and Notification of Provider Awards (Repealed)
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240.1655	Method of Identification of Provider Service Violations (Repealed)
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- 240.1710 Procurement Cycle For Case Management Services
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SUBPART R: ADVISORY COMMITTEE

Section

- 240.1800 Community Care Program Advisory Committee
- 240.1850 Technical Rate Review Advisory Committee (Repealed)

SUBPART S: PROVIDER RATES

Section

- 240.1910 Establishment of Fixed Unit Rates
- 240.1920 Contract Specific Variations
- 240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service
- 240.1940 Fixed Unit Rates of Reimbursement for Adult Day Service and Transportation
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- 240.1970 Enhanced Rate for Health Insurance Costs

SUBPART T: FINANCIAL REPORTING

Section

- 240.2020 Financial Reporting of In-home Service
- 240.2030 Unallowable Costs for In-home Service
- 240.2040 Minimum Direct Service Worker Costs for In-home Service
- 240.2050 Cost Categories for ~~In-home Homemaker~~ Service

AUTHORITY: Implementing Section 4.02 and authorized by Sections 4.01(11) and 4.02 of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(11)].

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SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendment at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendment at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendment at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendment at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendment suspended at 16 Ill. Reg. 1744; emergency amendment modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendment at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendment at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597,

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effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. 12418, effective September 1, 1997; amended at 22 Ill. Reg. 3415, effective February 1, 1998; amended at 23 Ill. Reg. 2496, effective February 1, 1999; amended at 23 Ill. Reg. 5642, effective May 1, 1999; amended at 26 Ill. Reg. 9668, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10829, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17358, effective November 25, 2002; emergency amendment at 28 Ill. Reg. 923, effective December 26, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 7611, effective May 21, 2004; emergency amendment at 30 Ill. Reg. 10117, effective June 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 11767, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 16281, effective September 29, 2006; amended at 30 Ill. Reg. 17756, effective October 26, 2006; amended at 32 Ill. Reg. 7588, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10940, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17929, effective November 10, 2008; amended at 32 Ill. Reg. 19912, effective December 12, 2008; amended at 33 Ill. Reg. 4830, effective March 23, 2009; amended at 34 Ill. Reg. 3448, effective March 8, 2010; emergency amendment at 34 Ill. Reg. 10854, effective July 15, 2010, for a maximum of 150 days; emergency expired December 11, 2010; emergency amendment at 34 Ill. Reg. 12224, effective August 4, 2010, for a maximum of 150 days; emergency expired December 31, 2010; amended at 35 Ill. Reg. 8919, effective June 2, 2011; emergency amendment at 35 Ill. Reg. 13936, effective July 28, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 20130, effective December 6, 2011; emergency amendment at 37 Ill. Reg. 11381, effective July 1, 2013, for a maximum of 150 days; emergency expired November 27, 2013; amended at 38 Ill. Reg. 5800, effective February 21, 2014.

SUBPART O: PROVIDERS

Section 240.1530 General In-home Service Staffing Requirements

- a) Each in-home service provider shall have specified staff adequate in number to comply with Section 240.1520(f) to carry out the following functions:
 - 1) A designated individual who has responsibility for administration of the CCP in-home service program.
 - 2) Qualified in-home service staff to meet the needs of all cases referred for the provision of in-home services. In determining what services are sufficient, the Department shall look to whether in-home services are adequate. Inadequate in-home services are characterized by delays or

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interruptions in the provision of in-home services or by failure to provide in-home services as required by the Plan of Care.

- b) The in-home service provider shall assign responsibilities to staff, including the following:
- 1) Planning and administration of the in-home service program; assuring adequate staff to provide required services at all times; serving as liaison between the staff and the community; implementing policies according to regulations promulgated by the Department that govern the program; recommending policy and program changes to the Department; and recruiting, training and supervising staff.
 - 2) Supervising of homecare aides shall be accomplished by qualified staff who have responsibility to ensure that the aides are scheduled and that assignments are kept.
- c) Each in-home service provider shall ensure that supervisors maintain a maximum 15-minute response time when homecare aides they supervise are serving in a ~~participant's~~ client's home and request information, assistance or direction as it relates to the ~~participant's~~ client's status, health or welfare. A supervisor must be available to respond to a homecare aide by available technology, such as by the ~~participant's~~ client's phone, or the aide's/provider's electronic equipment, email, cell phone, 24/7 live answering system, 2 way radio, or any other similar or suitable technology, according to the provider's written procedures.
- d) In-home service providers shall not subcontract for management, supervisory or in-home staff.
- e) In-home service providers shall make one hour service segments available when needed to meet applicant/client needs.
- f) Electronic ~~Visit Verification~~ ~~Timekeeping Systems~~
- 1) The Department ~~requires~~ encourages in-home service providers to ~~maintain electronic visit verification (EVV), based on global positioning systems or other cost-effective~~ explore available technology, ~~for automating the~~

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- ~~timekeeping system~~ for monitoring and verifying the work schedules of and the work performed by, all homecare aides.
- 2) EVV systems must meet the requirements set forth in Section 240.1531. ~~The timekeeping system should be capable of allowing homecare aides to clock in and out, verifying identity and location, so supervisory staff will be notified of any missed shifts and can arrange for a replacement worker or reschedule service to another time.~~
- 3) ~~The timekeeping system should be capable of transmitting automated timekeeping information to the Department when requested, for administrative and quality assurance purposes.~~
- 4) ~~In-home service providers should be aware that the Department will be considering making automated timekeeping systems mandatory in the future and may propose amendments to this Part requiring those systems.~~
- g) In-home service providers shall make evening and weekend service available to CCP participants/clients as required by the Plan of Care.
- 1) Evening service shall be available until at least 8 p.m. Monday through Friday.
- 2) Weekend service shall be available from at least 8 a.m. until 8 p.m. on Saturday and Sunday.
- 3) Provider offices are not required to be open for business during evening and weekend hours; however, a supervisor must be on-call and available whenever service is being provided.
- h) In-home service providers shall provide escort/transportation when required by the Plan of Care.
- i) Subject to the following restrictions, in-home service providers may hire family caregivers of applicants/participants/clients, or homecare aides who are recommended by applicants/participants/clients, once they have met all applicable CCP requirements and any other agency employment requirements:

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- 1) A family caregiver shall not be required to care for other ~~applicants/participants~~ ~~clients~~ served by the in-home service provider agency.
 - 2) A family caregiver cannot be the spouse of, or otherwise legally responsible for, ~~a~~ ~~an applicant/participant~~ ~~client~~.
- j) In-home service providers shall report and regularly update, as required by law, any registry of individuals certified as homecare aides (e.g., Health Care Worker Registry of the Illinois Department of Public Health) that is administered by the State of Illinois.

(Source: Amended at 38 Ill. Reg. 5800, effective February 21, 2014)

Section 240.1531 Electronic Visit Verification (EVV) Requirements for In-home Service Providers

- a) EVV is based on global positioning systems or other cost-effective technology and secure applications for monitoring work schedules of homecare aides supplied by and paid for by the in-home service provider agency, including:
 - 1) cellular phone or other mobile devices with activated global positioning systems;
 - 2) Telephony/Integrated Voice Recognition (IVR); or
 - 3) an alternative auditable technology when a phone is not available in the participant's home, such as, but not limited to, a fixed visit verification device installed in the participant's home.
- b) An EVV system must meet the following minimum standards:
 - 1) Functional Capacity
 - A) Verification of Hours Worked
 - i) The system must maintain accurate time reporting and allow for review/approval of time by the participant or

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participant designee, including participants with visual and physical disabilities.

- ii) The system must allow the participant or designee to manually or electronically verify that services were delivered and that time reporting is accurate.

B) Multiple Input Options

- i) The system must include electronic verification options, including a cellular phone or other mobile devices with activated global positioning systems, telephony/IVR, or an alternative auditable technology, when a phone is not available in the participant's home, such as, but not limited to, a fixed visit verification system installed in the participant's home for authentication purposes.
- ii) The electronic verification options must include the ability to create and manage related work schedule timesheets and participant service calendars, as authorized in the participant's Plan of Care.

C) Flexibility

- i) The system must support the addition of services, participants, and homecare aides, as needed.
- ii) The system must accommodate multiple participants and/or service provider agencies.
- iii) The system must accommodate multiple work shifts (e.g., more than one participant and/or homecare aide in the same home or at the same phone number; participants and homecare aides who live at the same address; multiple work shifts per day per participant/homecare aide combination; homecare aides who work for multiple participants; and participants who have multiple homecare aides).

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D) Capacity

- i) The system must record new EVV data.
- ii) The system must retain all EVV data for up to six years from the last date of service.
- iii) The system must retrieve archived data in a timely manner.

E) Tracking

- i) The system must document and track unedited sign-in and sign-out times of all homecare aide visits.
- ii) The system should allow for multiple sign in/out activities per day to accommodate time tracking for breaks in service, meals, and other service provider agency reporting requirements.

F) Recording Increments: The system must record homecare aide visits in quarter-hour increments and bill to the nearest quarter-hour, consistent with the Federal Fair Labor Standards Act [29 CFR 785.48(b)].G) Identification (ID) Capture: The system must electronically capture all relevant service visit data, including:

- i) participant ID;
- ii) service provider agency ID;
- iii) homecare aide ID;
- iv) date and time that service delivery begins and ends;
- v) location of the service; and

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- vi) Care Coordination Unit and Care Coordinator ID.
- H) Access: The system must be accessible for input and/or service approval 24-hours per day, 7 days per week for participants and homecare aides with hearing, physical or visual impairments.
- D) Alerts: The system must notify supervisory staff at the service provider agency of any untimely and missed shifts or deviation in schedules.
- 2) Billing Integration and Data Sharing
 - A) Real-time Data
 - i) The system must enable service provider agencies to obtain real-time data to arrange regular scheduled visits.
 - ii) The system must enable service provider agencies to respond in a timely manner to missed visits to ensure reliability in the delivery of care.
 - iii) The system must enable the use of the recorded EVV data for billing, verification, automated billing, and improved administrative efficiencies.
 - B) Secured Transaction Data
 - i) The system must enable service provider agencies to upload transactions data to the Department in a secured manner that would facilitate, at a minimum, daily billing data.
 - ii) The system must enable service provider agencies to securely handle internal billing and/or payroll functions pursuant to the recorded EVV data.
 - C) Modifications and Adjustments

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B) The interface file must include the homecare aide's Social Security Number or another unique personal identifier acceptable to the Department, visit start times and end times, and any other billing data required by the Department.

5) Disaster Recovery

A) The EVV system must maintain a Disaster Recovery Plan that complies with electronic data interchange standards for electronic healthcare transactions pursuant to the Medicaid Information Technology Architecture under the Health Insurance Portability and Accountability Act, identifying every resource that requires backup, to what extent backup is required and that conducts backup minimally on a daily basis in the event of a system failure.

B) The plan must include offsite electronic and physical storage in the United States, preferably in Illinois, and should include, at a minimum, the following:

- i) recovery procedures for all events ranging from a minor malfunction to a major disaster;
- ii) for offsite environments, roles and responsibilities of vendor and outsourcer staff;
- iii) checkpoint/restart capabilities;
- iv) retention and storage of backup files and software;
- v) hardware backup for the main processor;
- vi) application and operating system software libraries, including related documentation;
- vii) identification of the core business processes involved in the system;
- viii) documentation of Contingency Plans;

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- 1) Heading of the Part: Collateral Recovery
- 2) Code Citation: 92 Ill. Adm. Code 1480
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1480.10	Amend
1480.20	Amend
1480.25	New
1480.30	Amend
1480.35	New
1480.40	Amend
1480.50	Amend
1480.61	New
1480.70	Amend
1480.80	Amend
1480.90	Amend
1480.110	Amend
1480.120	Amend
1480.145	Amend
1480.146	Amend
1480.150	Amend
1480.190	Amend
1480.200	Amend
1480.230	Amend
1480.240	Amend
1480.270	Amend
1480.320	Amend
1480.330	Amend
1480.380	Amend
1480.390	Amend
1480.391	New
1480.392	New
1480.393	New
1480.400	Repeal
1480.410	Amend
1480.415	Amend
1480.416	Amend
1480.417	Amend

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1480.418	New
1480.420	Repeal
1480.430	Amend
1480.440	Amend
1480.450	Amend
1480.460	Amend
1480.470	Amend
1480.480	Amend
1480.490	Amend
1480.500	Amend
1480.510	Amend
1480.520	Amend
1480.530	Amend
1480.540	Amend

- 4) Statutory Authority: Implementing the Collateral Recovery Act and authorized by Section 20 of that Act [225 ILCS 422/20]
- 5) Effective Date of Rule: March 14, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule is on file and available for public inspection at:

Illinois Commerce Commission
Transportation Division
527 East Capitol Avenue
Springfield IL 62701
- 9) Notice of Proposal published in the *Illinois Register*: August 16, 2013; 37 Ill. Reg. 12953
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In subsections 1480.50(e)(1) and (2) and 1480.392 (f)(1) and (2), "change" was changed to "decrease" Also, minor punctuation and grammatical changes were made.

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- 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 rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments revise the rules of the Illinois Commerce Commission relating to collateral recovery in the State of Illinois. The adopted proposed amendments contain revisions intended to clarify current administrative and enforcement practices, simplify the application process, remove unnecessary requirements, ensure that the rules are consistent with the Act and establish additional administrative and enforcement procedures.
- 16) Information and questions regarding this adopted rule shall be directed to:

Katarzyna Kowalska
Office of Transportation Counsel
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/524-4227
kkowalska@icc.illinois.gov

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: MOTOR CARRIERS OF PROPERTYPART 1480
COLLATERAL RECOVERY

SUBPART A: MISCELLANEOUS PROVISIONS

Section
1480.10 Definitions

SUBPART B: LICENSES AND RECOVERY PERMITS

Section
1480.20 Repossession Agency Licensure
1480.25 [Licensed Recovery Manager in Control or Management of Repossession Agency Main Office or Branch Office](#)
1480.30 Repossession Agency License Transfer
1480.35 [Repossession Agency Branch Office Licensure](#)
1480.40 Recovery Manager Licensure
1480.50 Recovery Permits
1480.60 Conversion of Class "EE" Recovery Permit to Class "E" Recovery Permit
1480.61 [Consideration of Past Crimes in Licensing Hearings](#)
1480.70 Replacement or Revision of a License, ~~or~~ Recovery Permit [or Registration](#)
1480.80 Return of Revoked or Suspended Licenses, ~~and~~ Recovery Permits [or Registrations](#)

SUBPART C: RENEWAL, RESTORATION, REINSTATEMENT

Section
1480.90 Renewal of Licenses and Recovery Permits
1480.100 Restoration of Licenses and Recovery Permits
1480.110 Reinstatement of Licenses, ~~and~~ Recovery Permits [or Registrations](#)

SUBPART D: RESUMING ACTIVE STATUS

Section
1480.120 Resuming an Inactive License or Recovery Permit to Active Status

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SUBPART E: LICENSE EXTENSIONS

- Section
1480.130 License Extension upon the Death of a Person Licensed Individually
1480.140 License Extension upon the Death or Disassociation of Partner
1480.145 License Extension upon Death of a Shareholder of a Corporation or a Member of
a Limited Liability Company
1480.146 Exception to Revocation of an Extended License

SUBPART F: REGISTRATION OF PERSONNEL

- Section
1480.150 Registration Procedures

SUBPART G: APPROVAL OF CERTIFICATION PROGRAMS

- Section
1480.160 Applications for Commission Approval of Recovery Manager Certification
Programs
1480.170 Applications for Commission Approval of Repossession Agency Employee
Certification Programs

SUBPART H: RECOVERY TICKETS

- Section
1480.180 Generally

SUBPART I: BOOKS AND RECORDS

- Section
1480.190 Accounting and Maintenance of Books and Records
1480.200 Audit and Inspection of Books and Records
1480.210 Annual Report Filing

SUBPART J: INSURANCE

Section

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- 1480.220 Licenses Conditioned upon Compliance with Insurance Requirements
- 1480.230 Proof of Insurance

SUBPART K: INVENTORY OF PROPERTY

- Section
- 1480.240 Notification to the Debtor

SUBPART L: POSTING OF SIGNS

- Section
- 1480.250 Posting Requirements

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Section	
1480.540	Fees

AUTHORITY: Implementing and authorized by Sections 15, 20, 37, 45, 50, 80 and 135 of the Collateral Recovery Act [225 ILCS 422].

SOURCE: Adopted at 36 Ill. Reg. 8252, effective June 1, 2012; amended at 38 Ill. Reg. 5821, effective March 14, 2014.

SUBPART A: MISCELLANEOUS PROVISIONS

Section 1480.10 Definitions

"Act": the Collateral Recovery Act [225 ILCS 422].

"Administrative Law Judge": a Hearing Examiner or a Hearing Officer of the Illinois Commerce Commission's Transportation Division.

"Agent": when used in the Act or this Part, means a person or entity that is authorized to act for or in place of another, and is not a towing company or a person or entity acting on behalf of a towing company, a repossession agency or a person or entity acting on behalf of a repossession agency.

"Applicant": a person or entity ~~seeking action with respect to applying for~~ a license, recovery permit ~~or registration~~ or ~~approval of~~ a certification program under the Act and this Part.

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"Application": the form and process ~~of applying~~ for seeking action with respect to licensure, a recovery permit or registration or approval of a certification program under the Act and this Part. The time frame and consequences of failing to complete an application within the specific time frame as provided in Section 35(k) of the Act shall apply to all applications under the Act and this Part. Specifically, applicants have 90 days from the date of application to complete the application process. If the application has not been completed within 90 days, then the application shall be denied, any fee paid shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication. [225 ILCS 422/35(k)]

"Assignment": a written authorization by a legal owner, lien holder, lessor, lessee, or licensed repossession agency authorized by a legal owner, lien holder, lessor or lessee to locate or repossess, involuntarily or voluntarily, any collateral, including, but not limited to, collateral registered under the Illinois Vehicle Code that is subject to a security agreement that contains a repossession clause or is the subject of a rental or lease agreement. "Assignment" also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in the possession of the collateral. A photocopy, facsimile copy, or electronic copy of an assignment shall have the same force and effect as an original written assignment. [225 ILCS 422/10]

"Branch Office": each additional office and secured storage facility location of a repossession agency located in and conducting business within the State of Illinois and operating under the same name as the repossession agency where business is actively conducted or is engaged in the business authorized by the licensure. Each branch office must be individually licensed. [225 ILCS 422/10]

"Class "E" Recovery Permit": a permit issued to an individual whose duties include the actual repossession of collateral for a Class "R" recovery agency or a Class "RR" branch office and who has met the required criteria for obtaining the permit in accordance with the Act and this Part.

"Class "EE" Recovery Permit": a permit issued to an intern whose duties include the actual repossession of collateral under the direction and control of a designated, sponsoring Class "E" recovery permit or a designated, sponsoring

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Class "MR" license and who has met the required criteria for obtaining the permit in accordance with the Act and this Part.

"Class "MR" License": a license issued to any individual who performs the services of a recovery manager for a Class "R" recovery agency or a Class "RR" branch office and who has met the required criteria for licensure in accordance with the Act and this Part.

"Class "R" License": a license issued to any person, firm, company, partnership or corporation that engages in business as a recovery agency and has met the required criteria for licensure in accordance with the Act and this Part. A Class "R" license is valid only for a repossession agency's main office.

"Class "RR" License": a license issued to each branch office of a Class "R" repossession agency that has met the required criteria for licensure in accordance with the Act and this Part.

"Collateral": any vehicle, boat, recreational vehicle, motor home, motorcycle or other property that is subject to a security, lease or rental agreement. [225 ILCS 422/10]

"Commission": the Illinois Commerce Commission.

"Debtor": any person or entity obligated under a lease, rental, or security agreement. [225 ILCS 422/10]

"Deceive": the result from actions prohibited by Section 2 of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2].

"Defraud": the result of making a reckless or knowing misrepresentation of truth or concealment of fact to induce another to act to his or her detriment.

"Dishonorable": not in conformity with the Act or this Part.

"Financial Institution": a bank, a licensee under the Consumer Installment Loan Act [205 ILCS 670], savings bank, savings and loan association, or credit union organized and operating under the laws of this or any other state or of the United States, and any subsidiary or affiliate thereof. [225 ILCS 422/10]

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"Harm": adverse effect, injury, loss, damage or detriment.

"Immediate Family": includes the person's spouse, parents, children, siblings and partner in a civil union pursuant to the Illinois Religious Freedom Protection and Civil Union Act [750 ILCS 75].

"Legal Owner": a person holding a security interest in any collateral that is subject to a security agreement, a lien against any collateral, or an interest in any collateral that is subject to a lease or rental agreement. [225 ILCS 422/10]

"Licensure": the approval of the required criteria that has been submitted for review in accordance with the provisions of the Act [225 ILCS 422/10] for the purpose of licensing a recovery manager, repossession agency and branch office of a repossession agency.

"Main Office": primary facility of a licensed repossession agency located in the State of Illinois.

"Pending Criminal Charge": alleged violation of any penal law of the United States or any state or territory of the United States brought before a court against a person or entity that may result in a conviction for a crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80] but that has not been adjudicated by the court as of the date of application or the date of hearing.

"Pending Criminal Proceeding": judicial process instituted to adjudicate criminal charges brought before a court against a person or entity that has not culminated in an entry of a sentence, a guilty or not guilty judgment, a dismissal, or an order striking the criminal charges as of the date of application or the date of hearing.

"Personal Effects": any property contained within or on repossessed collateral, or property that is not permanently affixed to the collateral, that is not the property of the legal owner. [225 ILCS 422/10]

"Recovery Manager": a person who possesses a valid license in accordance with the provisions of the Act and is in control or management of a repossession agency.[225 ILCS 422/10]

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"Recovery Permit": a permit issued by the Commission to a repossession agency employee who has met all the requirements under the Act. [225 ILCS 422/10]

"Recovery Ticket": a serialized record obtained from the Commission for any ~~repossessed~~ repossessed vehicle or collateral evidencing that any person, business, financial institution, automotive dealership, or repossession agency who shows a recovery ticket has paid the recovery ticket fee to the Commission. [225 ILCS 422/10]

"Remote Storage Location": a secured storage facility of a licensed repossession agency designated for the storage of collateral that is a secure building or has a perimeter that is secured with a fencing construction that makes the area not accessible to the public. A remote storage location shall not transact business with the public and shall provide evidence of applicable insurance to the Commission that specifies the licensed repossession agency as the primary policy holder. A remote storage location shall be located in a commercially zoned area physically located in Illinois. [225 ILCS 422/10]

"Repossession Agency": any person or entity conducting business within the State of Illinois, that, for any type of consideration, engages in the business of, accepts employment to furnish, or agrees to provide or provides property locating services, property recovery, recovered property transportation, recovered property storage, or all services relevant to any of the following:

The location, disposition, or recovery of property as authorized by the self-help provisions of the Uniform Commercial Code;

The location, disposition, or recovery of lost or stolen property;

Securing evidence concerning repossession and recovery to be used before any court, board, office, or investigating committee;

Inventory of property contained in or on the collateral or recovered property;

The possession of collateral;

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The prevention of the misappropriation or concealment of chattel, vehicles, goods, objects, documents, or paper.

"Repossession Agency" does not include any of the following:

An attorney at law who is performing his or her duties as an attorney at law.

The legal owner of collateral that is subject to a security agreement;

An officer or employee of the United States of America or of this State or a political subdivision of this State while the officer or employee is engaged in the performance of his or her official duties;

A qualified [recovery manager's](#) license or recovery permit holder when performing services for, or on behalf of, a licensed repossession agency;

A collection agency licensed under the Collection Agency Act [225 ILCS 425] when its activities are limited to assisting an owner in the recovery of property that is not collateral, as defined in this Act. [225 ILCS 422/10]

"Repossession Agency Employee": any person or self-employed independent contractor who is hired by a repossession agency. [225 ILCS 422/10]

"Secured Storage Facility": an area located on the same premises as a repossession agency office or branch office that is designated for the storage of collateral and is a secure building or has a perimeter that is secured with a fencing construction that makes the area not accessible to the public. Each repossession agency office or branch office must maintain a secured storage facility. [225 ILCS 422/10]

"Security Agreement": an obligation, pledge, mortgage, chattel mortgage, lease agreement, rental agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt by furnishing the creditor with a recourse to be used in case of failure in the principal obligation. "Security agreement" includes a bailment where an employer-employee relationship exists or existed between the bailor and the bailee. [225 ILCS 422/10]

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"Transferee-Applicant": an applicant for transfer of a Class "R" License under the Act and this Part.

"Unethical": not in conformity with the Act or this Part.

"Unprofessional": not in conformity with the Act or this Part.

"Violation": failure to comply with a provision of the Act, this Part or Commission orders. Each day's continuance of a violation shall constitute a separate violation.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART B: LICENSES AND RECOVERY PERMITS

Section 1480.20 Repossession Agency Licensure

- a) Applications for repossession agency licensure shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for repossession agency licensure shall be refused or rejected by the Commission.
- b) Applicants for repossession agency licensure shall submit, along with their applications, ~~1) copies~~ Copies of government-issued photo identification, such as a driver's license, state identification card, or passport for all persons required to submit personal photo identification under the Act; ~~and~~
 - 2) ~~Copies of registration cards to all vehicles owned or leased that shall be utilized under the repossession agency license.~~
- c) Applicants for repossession agency licensure shall disclose on their applications:
 - 1) ~~All~~ Any civil judgments entered in the 5 years preceding the date of application by any legal forum other than the Commission arising from conduct while performing repossessions against the applicant or any individual required by Section 60 of the Act to submit to a criminal background check as part of the licensure process; and

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- 2) All convictions for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] The applicant shall provide all information required by the Commission's application regarding the applicant's convictions, in addition to submitting to a criminal background check as required by the Act. ~~Make, model, year, plate number and VIN of vehicles that the applicant intends to utilize under the repossession agency license; and~~
- 3) ~~Financial condition of the applicant as represented by the completed financial statement included with the application. The financial statement shall consist of a balance sheet and a projected income statement for a period of one year. A professionally prepared financial statement or profit/loss report may be substituted for the financial statement included in the application if it contains information substantially similar to that requested by the Commission and is certified by an appropriately licensed accountant or accounting firm.~~
- d) As part of the repossession agency licensure process, the Commission shall consider the criminal record of the applicant. The Commission may refuse to issue or renew a repossession agency license if the applicant has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] For purposes of this subsection and subsection (c)(2), "applicant" shall include the sole proprietor if the applicant is a sole proprietorship, each partner of the applicant that is a partnership, each officer of the applicant that is a corporation and each member of the applicant that is a limited liability company.
- e) The Commission shall review applications for repossession agency licensure to determine whether the applicant has satisfied the fitness criteria contained in the Act and this Part. If, upon review of an application, the Commission discovers that the applicant or any individual required to submit to a criminal background check as part of the licensure process has been *convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession* [225 ILCS 422/80], the matter shall be set

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for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction.

- f) A repossession agency license shall not be issued to the applicant if the applicant or any individual required to submit to a criminal background check as part of the licensure process has pending criminal proceedings involving any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. The application for repossession agency licensure shall remain on pending status until the resolution of the pending criminal charges. If the criminal proceedings culminate in the applicant or any individual required to submit to a criminal background check as part of the licensure process being convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction. [225 ILCS 422/80]
- g)e) At the hearing, the applicant shall have the burden of proving fitness by clear and convincing evidence.
- h) Only repossession agencies that have active licenses with the Commission are authorized to engage in collateral recovery in the State of Illinois. Repossession agencies whose licenses have been placed on a status other than active are not authorized to engage in collateral recovery in the State of Illinois.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.25 Licensed Recovery Manager in Control or Management of Repossession Agency Main Office or Branch Office

- a) A licensed recovery manager is in control or management [225 ILCS 422/65(a)] of a repossession agency main office or a repossession agency branch office when the recovery manager is physically present at the repossession agency main office or branch office or within a close proximity of the repossession agency main office or branch office and able to supervise employees and repossession activities of the repossession agency main office or branch office.

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- b) When a licensed recovery manager currently registered with the Commission temporarily ceases to be in control or management of a repossession agency main office or branch office, the repossession agency may use a temporary, registered, licensed recovery manager with the Commission who will be temporarily in control or management of a repossession agency main office or branch office.
- 1) A temporary, licensed recovery manager must have an active Class "MR" License, be registered in that capacity with the Commission pursuant to Subpart F and be otherwise in compliance with the Act and this Part prior to assuming duties as a recovery manager on behalf of a licensed repossession agency. The temporary recovery manager must possess an active Class "MR" License issued by the Commission at the time of registration. A temporary, licensed recovery manager must comply, at all times, with the Act and this Part while serving as the licensed recovery manager for a repossession agency main office or branch office.
- 2) The provisions of this subsection (b) may be utilized in addition to, but not in lieu of, the provisions of the Act or this Part.

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.30 Repossession Agency License Transfer

- a) Applications for the transfer of a repossession agency license shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for the transfer of a license shall be refused or rejected by the Commission. Applications shall be accompanied by the appropriate fee listed in Section 1480.540.
- b) The following shall constitute a transfer of a repossession agency license:
- 1) Change in the ownership interest of the license;
- 2) Change in the ownership interest of the license holder.
- c) Transferees-applicants ~~for the transfer of a license~~ shall disclose on transfer applications:

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- 1) Allany civil judgments entered in the 5 years preceding the date of application by any legal forum other than the Commission arising from conduct while performing repossessions against the transferee-applicant or any individual required to submit to a criminal background check as part of the licensure process; and-
- 2) All convictions for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] The transferee-applicant shall provide all information required by the Commission's application regarding the transferee-applicant's convictions, in addition to submitting to a criminal background check as required by the Act.
- d) Unless otherwise specifically provided for in the Act or in this Part, ~~transfereetransferees~~-applicants will be held to the same fitness standards and will be required to comply with the same application procedures as initial applicants for repossession agency licensure.
- e) The Commission shall review applications for the transfer of a license to determine whether the transferee-applicant has satisfied the fitness criteria contained in the Act and this Part. If, upon review of an application for the transfer of a license, the Commission discovers that the transferee-applicant or any individual required to submit to a criminal background check as part of the licensure process has been *convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80]*, the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the transferee-applicant is unfit by reason of conviction.
- f) A transfer of a repossession agency license shall not be granted to a transferee-applicant if the transferee-applicant or any individual required to submit to a criminal background check as part of the licensure process has pending criminal proceedings involving any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential

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element of which is dishonesty, or a crime related to the practice of the profession. The application for transfer of repossession agency licensure shall remain on pending status until the resolution of the pending criminal charges. If the criminal proceedings culminate in the transferee-applicant or any individual required to submit to a criminal background check as part of the licensure process being convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the transferee-applicant is unfit by reason of conviction. [225 ILCS 422/80]

- g) Only repossession agency licenses that are in good standing with the Commission may be transferred. Applicants have 90 days from the date of application to complete the application process. The repossession agency license shall remain on active status during the 90 day period. If the application process has not been completed and all the fitness standards have not been fulfilled within 90 days, then the application shall be denied, the fee shall be forfeited and the license shall be suspended. [225 ILCS 422/35(k)]
- h) At the hearing, the applicant shall have the burden of proving fitness by clear and convincing evidence.
- i) As part of the transfer of repossession agency licensure process, the Commission shall consider the criminal record of the transferee-applicant. The Commission may refuse to grant the transfer of a repossession agency license if the transferee-applicant has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] For purposes of this subsection and subsection (c)(2), "transferee-applicant" shall include the sole proprietor if the transferee-applicant is a sole proprietorship, each partner of the transferee-applicant that is a partnership, each officer of the transferee-applicant that is a corporation and each member of the transferee-applicant that is a limited liability company.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.35 Repossession Agency Branch Office Licensure

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Applications for repossession agency branch office licensure shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for repossession agency branch office licensure shall be refused or rejected by the Commission.

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.40 Recovery Manager Licensure

- a) Applications for recovery manager licensure shall be made on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for recovery manager licensure shall be refused or rejected by the Commission.
- b) Applicants for recovery manager licensure shall disclose on their applications:
 - 1) Allany civil judgments entered against them in the 5 years preceding the date of application by any legal forum other than the Commission arising from their conduct while performing repossessions; and-
 - 2) All convictions for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] The applicant shall provide all information required by the Commission's application regarding the applicant's convictions, in addition to submitting to a criminal background check as required by the Act.
- c) Applicants for recovery manager licensure shall submit the following as part of the application:
 - 1) A sworn statement from the applicant attesting he or she has completed no less than 2,500 hours of actual compensated collateral recovery work as an employee of a repossession agency, a financial institution or a vehicle dealer within the 5 years immediately preceding the filing of his or her application;

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- 2) Copies of paycheck stubs, W2s, ~~or~~ 1099s or payroll printouts from the manager's employment. If the applicant is unable to provide copies of paycheck stubs, W2s, ~~or~~ 1099s or payroll printouts supporting the actual compensated collateral recovery experience in the 5 years immediately preceding the filing of the application, the applicant shall provide a separate written statement explaining the unavailability of paycheck stubs, W2s, ~~or~~ 1099s or payroll printouts, as well as a sworn statement from each repossession agency, financial institution or vehicle dealer for which the applicant performed actual collateral recovery work for compensation during the 5 years immediately preceding the application;
 - 3) Proof of completion of a recovery manager certification program approved by the Commission under Section 1480.160; and
 - 4) A copy of a government-issued photo identification issued to the applicant, such as a driver's license, state identification card, or passport.
- d) The Commission shall review applications for recovery manager licensure to determine whether the applicant has satisfied the fitness criteria contained in the Act and this Part. If, upon review of an application for a recovery manager license, the Commission discovers that the applicant has been *convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession* [225 ILCS 422/80], the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction.
- e) A recovery manager license shall not be issued to an applicant who has pending criminal proceedings involving any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. The application for recovery manager licensure shall remain on pending status until the resolution of the pending criminal charges. If the criminal proceedings culminate in the applicant being convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, the matter shall be set for an

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administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction. [225 ILCS 422/80]

- f) Only individuals who have active Class "MR" Licenses with the Commission are authorized to operate as recovery managers for a repossession agency main office or branch office. Individuals whose recovery manager licenses have been placed on a status other than active are not authorized to operate as recovery managers.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.50 Recovery Permits

- a) Applications for initial recovery permits Class "E" and Class "EE" shall be filed on forms and contain information prescribed by the Commission. Incomplete or incorrect applications for recovery permits shall be refused or rejected by the Commission.
- b) Applicants for recovery permits Class "E" and Class "EE" shall disclose on their applications:
- 1) Allany civil judgments entered against them in the 5 years preceding the date of application by any legal forum other than the Commission arising from their conduct while performing repossessions; and-
 - 2) All convictions for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80] The applicant shall provide all information required by the Commission's application regarding the applicant's convictions, in addition to submitting to a criminal background check as required by the Act.
- c) The Commission shall review applications for recovery permits Class "E" and Class "EE" to determine whether the applicant has satisfied the fitness criteria contained in the Act. If, upon review of an application for recovery permit, the Commission discovers that the applicant has been *convicted of any crime under the laws of the United States or any state or territory of the United States that is a*

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felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80], the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction.

- d) Class "E" and Class "EE" recovery permits shall not be issued to applicants who have pending criminal proceedings involving any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. The applications for Class "E" and Class "EE" recovery permits shall remain on pending status until the resolution of the pending criminal charges. If the criminal proceedings culminate in the applicant being convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction. [225 ILCS 422/80]
- e) At hearing, the applicant shall have the burden of proving fitness by clear and convincing evidence.
- f) Applicants shall submit as part of their recovery permit Class "E" and Class "EE" applications copies of government-issued photo identification issued to the applicant, such as a driver's license, state identification card, or passport.
- g) Applicants for Class "EE" recovery permits shall fulfill the same fitness standards that are required of Class "E" recovery permit applicants except Class "EE" applicants shall not have to demonstrate completion of an approved recovery agency employee certification program.
- h) Only individuals who have active recovery permits with the Commission are authorized to perform actual repossession in the State of Illinois for a licensed repossession agency. Individuals whose recovery permits have been placed on a status other than active are not authorized to engage in actual repossessions in the State of Illinois for a licensed repossession agency.

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- i) A Class "EE" recovery permit holder is under the direction and control of a designated, sponsoring Class "E" recovery permit or a designated, sponsoring Class "MR" license [225 ILCS 422/75(e)(5)], when the Class "EE" recovery permit holder is accompanied at all times by a designated, sponsoring Class "E" recovery permit holder or Class "MR" license holder when the Class "EE" recovery permit holder engages in actual repossessions in the State of Illinois.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.61 Consideration of Past Crimes in Licensing Hearings

Notwithstanding the prohibitions set forth in Sections 40 and 45 of the Act, when considering the denial of a license or recovery permit on the grounds of conviction of a crime, the Commission, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license or recovery permit, shall consider each of the following criteria:

- a) The nature and severity of the act or crime under consideration as grounds for denial.
- b) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, which also could be considered as grounds for disciplinary action under the Act.
- c) The amount of time that has lapsed since the commission of the act or crime referred to in subsection (a) or (b).
- d) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant as of the date of the hearing as evidenced by:
- 1) Satisfactory termination of the applicant's sentence;
 - 2) Applicant's compliance with all requirements and conditions of parole, probation, conditional discharge, term of imprisonment or any other lawfully imposed sentence;
 - 3) Applicant's compliance with paying any fees, fines, court costs or restitution imposed by the court as part of the sentence.

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- e) Evidence, if any, of rehabilitation submitted by the applicant [225 ILCS 422/85], such as:
- 1) Bestowment onto the applicant of certifications or commendations subsequent to a conviction for a crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80] that demonstrate a decrease in propensity toward the behavior that previously caused the applicant to become convicted;
 - 2) Applicant's successful participation in special programs or counseling groups designed to decrease the propensity toward the behavior that previously caused the applicant to become convicted of a crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80]

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.70 Replacement or Revision of a License, ~~or~~ Recovery Permit or Registration

Applications for replacement or revision of any license, ~~or~~ recovery permit or registration issued under the Act or this Part shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for replacement or revision of a license, ~~or~~ recovery permit or registration shall be refused or rejected by the Commission.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.80 Return of Revoked or Suspended Licenses, ~~and~~ Recovery Permits or Registrations

Upon ~~the revocation or receipt of a notice of~~ suspension of any license, registration or recovery permit ~~or revocation from the Commission~~, the license holder, registration holder or permit holder shall immediately surrender, within 3 days, return the license, registration or recovery permit to the Commission. [225 ILCS 422/185] The license, registration or recovery permit holder will be considered in compliance with this Section if the license, registration or recovery

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[permit is returned within 14 days from the date of suspension or revocation](#) via United States mail or hand delivery at the following address:

Illinois Commerce Commission
Transportation Division
527 East Capitol Avenue
Springfield, Illinois 62701

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART C: RENEWAL, RESTORATION, REINSTATEMENT

Section 1480.90 Renewal of Licenses and Recovery Permits

- a) Applications to renew a license or recovery permit shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for renewal of licenses or recovery permits shall be refused or rejected by the Commission.
- b) Applicants for the renewal of a license shall fulfill the same fitness standards that are required of initial applicants for a respective license. Applicants for the renewal of a recovery permit shall fulfill the same fitness standards that are required of initial applicants for a respective recovery permit.
- c) [For applicants whose applications were previously set for hearing due to a conviction, if, upon review of an application for renewal, the Commission discovers that the applicant or any individual required to submit to a criminal background check as part of the licensure process has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession \[225 ILCS 422/80\] since the last hearing held in the matter, the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction.](#)
- d) [Applications for renewal of a license or permit must be filed with the Commission no earlier than 90 days and not later than 45 days prior to the expiration of a license or permit. The license or permit holder must satisfactorily complete the](#)

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application process and fulfill all the fitness standards by the expiration date of the license or permit. A license or permit expires on the expiration date if not successfully renewed by the Commission prior to the expiration date. Any license or recovery permit holder whose license or recovery permit is not renewed by the license's or permit's expiration date shall not engage in the practice of recovery in this State or use the title or advertise that he, she, or it performs the services of a licensed repossession agency, licensed recovery manager, or repossession agency employee. [225 ILCS 422/75(k)]

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.110 Reinstatement of Licenses, ~~and~~ Recovery Permits or Registrations

- a) Applications to reinstate a revoked or suspended license, ~~or~~ recovery permit or registration shall be filed on forms and contain the information prescribed by the Commission. Incomplete or incorrect applications for reinstatement of licenses, ~~or~~ recovery permits or registrations shall be refused or rejected by the Commission.
- b) An applicant for the reinstatement of a license shall fulfill the same fitness standards required of an initial applicant for a respective license. License holders whose licenses were suspended or revoked according to Section 1480.392 shall cure the deficiency that caused the suspension or revocation, file a reinstatement application and pay the reinstatement application fee before the license may be reinstated.
- c) An applicant for the reinstatement of a recovery permit shall fulfill the same fitness standards required of an initial applicant for a respective recovery permit. Recovery permit holders whose permits were suspended or revoked according to Section 1480.392 shall cure the deficiency that caused the suspension or revocation, file a reinstatement application and pay the reinstatement application fee before the recovery permit may be reinstated.
- d) An applicant for the reinstatement of a registration shall fulfill the same fitness standards required of an initial applicant for a respective registration. Registration holders whose registrations were suspended or revoked according to Section 1480.392 shall cure the deficiency that caused the suspension or revocation, file a

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reinstatement application and pay the reinstatement application fee before the registration may be reinstated.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART D: RESUMING ACTIVE STATUS

Section 1480.120 Resuming an Inactive License or Recovery Permit to Active Status

- a) Any person or entity requesting that a license or recovery permit be changed from inactive to active status shall submit a written notice on a form containing the information prescribed by the Commission ~~or in the form of a letter to the Commission~~. Incomplete or incorrect written ~~forms~~notices shall be refused or rejected by the Commission. ~~If a person or entity submits the written notice in the form of a letter, the letter must provide, at minimum, the following information:~~
- ~~1) Full legal name of the person or entity;~~
 - ~~2) Address of the person or entity;~~
 - ~~3) Phone number of the person or entity;~~
 - ~~4) Identifying number of the license or recovery permit;~~
 - ~~5) Brief statement requesting active status; and~~
 - ~~6) Signature of person authorized to sign on behalf of the person or entity.~~
- b) Any person or entity requesting to resume a license to active status shall fulfill the same fitness standards that are required of an initial applicant for a respective license. Any person requesting to resume a recovery permit to active status shall fulfill the same fitness standards that are required of an initial applicant for a respective recovery permit. Active status will not be resumed until the person or entity has demonstrated full compliance with the Act and this Part.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART E: LICENSE EXTENSIONS

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Section 1480.145 License Extension upon Death of a Shareholder of a Corporation or a Member of a Limited Liability Company

- a) In the case of the death of a shareholder of a corporation licensed as a repossession agency, the corporation shall notify the Commission, in writing, within 30 days from the death of a shareholder. If the corporation fails to notify the Commission within the 30-day period, the license shall automatically be revoked at the end of that period. If proper notice is given, the license shall remain in force for 90 days following the date of death of a shareholder. At the end of the 90-day period, the license shall automatically be revoked.
- b) In the case of the death of a member of a limited liability company licensed as a repossession agency, the company shall notify the Commission, in writing, within 30 days from the death of a member. If the company fails to notify the Commission within the 30-day period, the license shall automatically be revoked at the end of that period. If proper notice is given, the license shall remain in force for 90 days following the date of death of a member. At the end of the 90-day period, the license shall automatically be revoked.
- c) The corporation or limited liability company shall submit written notice on a form containing the information prescribed by the Commission or in the form of a letter to the Commission. Incomplete or incorrect written notices shall be refused or rejected by the Commission. If the corporation or limited liability company submits the written notice in form of a letter, the letter shall provide, at minimum, the following information:
 - 1) Full legal name of the corporation or limited liability company;
 - 2) Business address of the corporation or limited liability company;
 - 3) Business telephone of the corporation or limited liability company;
 - 4) Identifying number of the license;
 - 5) Full legal name of the deceased shareholder or member;
 - 6) Full legal name of every shareholder or member;

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- 7) Address of every shareholder or member;
 - 8) Telephone number of every shareholder or member;
 - 9) Date of death of the shareholder or member;
 - 10) Brief statement requesting extension; and
 - 11) Notarized signature of [authorized company representative](#)~~the notifying shareholder or member.~~
- d) The corporation or limited liability company shall submit, along with the written notice, a copy of the deceased shareholder's or member's death certificate.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.146 Exception to Revocation of an Extended License

In case of death of a person licensed individually, the license will not automatically be revoked at the end of the 120-day period if the immediate family member of the person licensed individually applies for a transfer of the repossession agency license in accordance with the Act and this Part within the 120-day period. For partnerships, corporations and limited liability companies, the license will not automatically be revoked at the end of the 90-day period if the partnership, corporation or limited liability company applies for a transfer of the repossession agency license in accordance with the Act and this Part within the 90-day period. The corporation, limited liability company, immediate family member of the person individually licensed or partnership may continue to operate under the repossession agency license [until pending a final decision granting or denying the transfer is issued or the 90-day period to complete the transfer application process and fulfill all the fitness standards expires, whichever comes first.](#)

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART F: REGISTRATION OF PERSONNEL

Section 1480.150 Registration Procedures

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- a) Repossession agencies shall register all recovery managers and persons engaged in actual repossession with the Commission. Registration shall be completed on forms and contain the information prescribed by the Commission. Incomplete or incorrect registration forms shall be refused or rejected by the Commission.
- b) Registrations shall not be effective until accepted by the Commission.
- c) No repossession agency shall issue an employee identification card until a registration for that employee or intern ~~person~~ has been accepted by the Commission.
- d) Registrations shall indicate, for every ~~whether the~~ person being registered as an employee or intern who will perform actual repossessions by ~~shall~~ driving ~~drive~~ away collateral, or towing collateral by a tow ~~use a tow~~ truck, or both, to tow away, collateral on behalf of the licensed repossession agency, ~~or both, and~~ whether the person being registered holds a valid state driver's license or restricted driving permit. The Commission shall not accept a registration when the registration indicates that the person being registered as an employee or intern will perform actual repossessions by driving ~~may drive~~ away, or driving ~~drive~~ a tow truck to tow away, collateral, or both, without a valid state driver's license or restricted driving permit.
- e) Once a person is registered with the Commission, the registration shall be updated by filing a form containing the information prescribed by the Commission to effect any changes to the registration.
- f) If a registered person's license or recovery permit is summarily suspended, the Commission shall notify the license or permit holder and any repossession agency with which that person is registered.
- g) Registrations for temporary, licensed recovery managers shall indicate the specific period of time during which the temporary, licensed recovery manager will serve as a recovery manager in control or management of the repossession agency main office or branch office. A temporary, licensed recovery manager may only be registered as such for a period of 30 days, at the end of which the registration will expire. The registration of the licensed recovery manager who is being temporarily replaced need not be cancelled when the licensed recovery

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[manager temporarily ceases control and management of the repossession agency main office or branch office.](#)

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART I: BOOKS AND RECORDS

Section 1480.190 Accounting and Maintenance of Books and Records

- a) Each repossession agency shall comply with generally accepted accounting principles for use in the keeping and recording of their accounts and bookkeeping records.
- b) As generally accepted accounting standards, the Commission incorporates by reference "Generally Accepted Accounting Principles" of the Financial Accounting Standards Board (July 1, 2009, no later amendments or editions included).

Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Telephone: 203-847-0700

- c) The books referred to in this Subpart include not only books of account in a limited technical sense but all other correspondence, memoranda, etc., that will be useful in developing the history of or facts regarding any transaction.
- d) Each repossession agency shall preserve the books, accounts, records or memoranda for a period of at least 23 years.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.200 Audit and Inspection of Books and Records

- a) Each repossession agency shall permit Commission staff to inspect, [examine and](#) ~~or~~ [audit by producing, upon demand, all accounts, books, records, memoranda,](#)

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~~other papers and electronic data in the possession or control of the repossession agency to determine whether provisions of the Act or this Part have been violated. its books and records, on request, at any time during the repossession agency's regular business hours.~~

- b) Commission staff shall have the power, at any and all times, to examine, audit or demand production of all accounts, books, records, memoranda, ~~and~~ other papers and electronic data in the possession or control of any other person to determine whether provisions of the Act or this Part have been violated.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART J: INSURANCE

Section 1480.230 Proof of Insurance

Proof of insurance or cancellation shall be filed on forms containing the information prescribed by the Commission. The filing of proof of insurance shall constitute acceptance of the minimum terms required by Section 90 of the Act. The coverage shall remain in effect until the coverage expires, a cancellation form is filed with the Commission or the coverage is superseded by filing a subsequent ~~certification~~certificate of insurance. The Commission shall receive notice of cancellation no later than the effective date of cancellation of the policy.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART K: INVENTORY OF PROPERTY

Section 1480.240 Notification to the Debtor

- a) *Within 5 working days after repossession, a licensed repossession agency must give written notice to the debtor of the whereabouts of personal effects or property not covered by a security agreement inventoried pursuant to Section 110 of the Act [225 ILCS 422/110], on a form containing the information prescribed by the Commission or in the form of a letter. Each notification form shall be approved by a licensed recovery manager authorized to work for the licensed repossession agency. If the licensed repossession agency submits the written notice in the form of a letter, the letter shall provide, at minimum, the following information:*

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- 1) The full legal name of the licensed repossession agency as it appears on its repossession agency license issued by the Commission or, if applicable, an authorized trade name as it appears on its repossession agency license;
 - 2) The licensed repossession agency's license number;
 - 3) Date of the repossession;
 - 4) Date of the notice;
 - 5) Description of the collateral repossessed;
 - 6) The address and phone number of the location where the debtor can come to claim any personal property in the licensed repossession agency's possession;
 - 7) The signature of a licensed recovery manager; and
 - 8) The signing licensed recovery manager's license number.
- b) If the debtor, or an authorized individual with a notarized release from the debtor, retrieves personal effects or property not covered by a security agreement from the repossessed collateral prior to the time when written notice to the debtor is due pursuant to Section 110 of the Act, the licensed repossession agency is not required to send written notice as prescribed in Section 110 of the Act. A personal property receipt, signed by the debtor or an authorized individual pursuant to the notarized release from the debtor, must be placed in the licensed repossession agency's records for a minimum of ~~2~~^{three} years and made available for inspection upon request by the Commission.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART M: REPOSSESSION AGENCY MAIN OFFICE
AND BRANCH OFFICES WITH SECURED STORAGE FACILITIES

Section 1480.270 Ownership

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The licensed repossession agency must own, or have exclusive possession of under a written lease with a term of at least 1 year, a main office and, if applicable, branch offices, with secured storage facilities. At the time of filing an application for [licensureregistration](#), the following shall be provided:

- a) If the property is owned, proof of ownership of the property, including but not limited to mortgage documents, tax bill or a deed; or
- b) If the property is leased, a copy of a valid written lease with a term of 1 year.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART N: REMOTE STORAGE LOCATIONS

Section 1480.320 Registering Remote Storage Locations

A repossession agency shall register ~~all as part of its initial application for license any~~ remote storage locations [with the Commission.](#) ~~In the event that the agency acquires additional remote storage locations after the filing of an initial application, it shall register any additional storage locations~~ on forms containing the information prescribed by the Commission. Incomplete or incorrect forms shall be refused or rejected by the Commission.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.330 Security of the Remote Storage Locations

- a) Each remote storage location shall be a secure building or have a perimeter that is secured by a fence with locking gates that make the area not accessible to the public and prevent unauthorized access to repossessed collateral. All gates shall remain locked at all times but may be temporarily opened to allow for authorized access.
- b) Only [persons employed by the repossession agency and agents of the repossession agency](#) ~~the following individuals~~ shall have access to repossessed collateral while it is being stored by the repossession agency [at a remote storage location.](#)
 - 1) ~~Persons employed by the repossession agency and agents of the repossession agency;~~

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- 2) ~~Other persons lawfully entitled to access to repossessed collateral or to the remote storage location; and~~
- 3) ~~Collateral owners or agents of collateral owners while either:~~
 - A) ~~Accompanied by an employee or agent of the repossession agency;~~
~~or~~
 - B) ~~Under electronic surveillance by an employee or agent of the repossession agency.~~

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.380 Compliance Inspection

A compliance inspection shall be conducted by the Commission staff prior to issuance of a registration. The inspection shall include, but not be limited to, a review of:

- a) Physical characteristics of the remote storage location, including but not limited to the size, location and overall condition of the remote storage;
- b) Types of repossessed collateral stored;
- c) Proper storage of repossessed collateral;
- ~~d) Proper posting of signs;~~
- ~~d)e) Method of protection from fire;~~
- ~~e)f) Method of protection from theft or burglary;~~
- ~~f)g) Method of protection from potential damage to the stored repossessed collateral by vermin, insects or water; and~~
- ~~g)h) Proper documentation of the repossessed collateral being stored.~~

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

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SUBPART O: SUSPENSIONS, REVOCATIONS
AND OTHER DISCIPLINARY ACTIONS~~LEASING~~

Section 1480.390 Disciplinary Actions with Respect to Repossession Agency License Holders~~Leasing Requirements~~

The Commission may revoke or may suspend, place on probation, or take any other disciplinary action that is consistent with the Act, with regard to any repossession agency license holder if the license holder, or the sole proprietor if the license holder is a sole proprietorship, any partner of the license holder that is a partnership, any officer of the license holder that is a corporation, or any member of the license holder that is a limited liability company has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80]

~~Licensed repossession agencies may perform repossession with equipment they do not own only in accordance with the provisions of this Subpart.~~

- ~~a) A lease must be executed on the lease form provided by the Commission. Incomplete or incorrect lease forms shall be refused or rejected by the Commission.~~
- ~~b) A lease must be between the owner of the equipment (the lessor) and the repossession agency to which the equipment is leased (the lessee). The lease must be signed by each party or its authorized representative.~~
- ~~e) The original and 2 copies of each completed lease to which this Part applies must be filed, along with the appropriate fee listed in Section 1480.540. Leases shall be filed with the Commission's Transportation Division at the following address:~~

~~Illinois Commerce Commission
Transportation Division
527 East Capitol Avenue
Springfield, Illinois 62701~~

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- d) ~~No operations shall be conducted using equipment to which this Subpart applies until a copy of the completed lease has been filed with the Commission at the address specified in subsection (c).~~
- e) ~~When the lessee takes or relinquishes possession of the equipment, the repossession agency shall give the owner of the equipment a receipt stating the date and time of day possession is transferred.~~
- f) ~~During the period of the lease, the lessee shall identify the equipment by attaching a placard with the identification of the lessee. A copy of the approved executed lease shall be carried in each piece of equipment covered by the lease.~~
- g) ~~A copy of the completed written lease shall be retained as part of the lessee's records.~~
- h) ~~The term of the lease shall not exceed 3 years. In the event that a repossession agency wishes to cancel a lease prior to the expiration date, the repossession agency may file a notice of cancellation with the Commission at the address in subsection (c). Otherwise, the lease shall remain in effect until the expiration date stated in the lease or at the end of 3 years, whichever occurs first.~~
- i) ~~In the event that the license held by the lessee is revoked, the lease shall no longer be valid.~~
- j) ~~In the event that a transfer of a repossession agency's license occurs:~~
 - 1) ~~The lease shall remain in effect and shall bind the transferee if the name of the license holder is not changed by the transfer; or~~
 - 2) ~~The lease shall be void from the date the transfer is granted if the name of the license holder is changed by the transfer, unless the transferee files an amendment to the lease showing the change and showing that it has assumed the obligations of the transferor under the lease.~~
- k) ~~In the event that the lessee undergoes a name change, the lease shall be void from the date of the name change unless the lessee files on forms containing the information prescribed by the Commission an amendment to the lease showing~~

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~~the changes. Incomplete or incorrect forms shall be refused or rejected by the Commission.~~

- ~~1) Leased equipment and drivers must be within the exclusive control of the repossession agency when operated under authority of the repossession agency's license.~~

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.391 Suspension or Revocation of Remote Storage Location Registrations

The Commission may suspend, revoke or take any other disciplinary action consistent with the Act with respect to any holder of a remote storage location registration for failure to file proof of insurance or any other violation of the Act or this Part.

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.392 Special Revocation Procedures

- a) The Commission shall serve, by first-class United States Mail at the mailing address of record with the Commission, notice upon a license, permit or registration holder who failed to:
- 1) Pay a franchise tax, license fee or penalty or comply with any other requirements under the Business Corporation Act of 1983 [805 ILCS 5], the Limited Liability Company Act [805 ILCS 180], the Uniform Partnership Act (1997) [805 ILCS 206] and Uniform Limited Partnership Act (2001) [805 ILCS 215], causing the business entity to become dissolved or declared not in good standing or its assumed name to become inactive with the Illinois Secretary of State.
 - 2) Comply with Commission regulations and orders regarding the filing of proof of insurance and annual reports and the payment of penalties or fines.
- b) The notice shall advise the license, permit or registration holder of the apparent violations and state that, unless the violation is corrected within 30 days from the

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date the notice is served, the license, permit or registration will be suspended by operation of law without further action by the Commission.

- c) Upon suspension of the license, permit or registration, the Commission shall issue another notice to the license, permit or registration holder that shall advise of the apparent violations and state that, unless the violation is corrected within 30 days from the date of suspension, the license, permit or registration will be revoked by operation of law without further action by the Commission.

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.393 Consideration of Past Crimes in Disciplinary Hearings

When considering the suspension or revocation of a license or recovery permit on the grounds of conviction of a crime, the Commission, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license or recovery permit, shall consider each of the following criteria:

- a) The nature and severity of the act or offense.
- b) The license holder's or recovery permit holder's criminal record in its entirety.
- c) The amount of time that has lapsed since the commission of the act or offense.
- d) Whether the license holder or recovery permit holder has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against him or her as of the date of the hearing, as evidenced by:
- 1) Satisfactory termination of the license or recovery permit holder's sentence;
 - 2) License or recovery permit holder's compliance with all requirements and conditions of parole, probation, conditional discharge, term of imprisonment or any other lawfully imposed sentence;
 - 3) License or recovery permit holder's compliance with paying any fees, fines, court costs or restitution imposed by the court as part of the sentence.

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- e) *If applicable, evidence of expungement proceedings.*
- f) *Evidence, if any, of rehabilitation submitted by the license holder or recovery permit holder [225 ILCS 422/85] such as:*
 - 1) *Bestowment onto the license or recovery permit holder of certifications or commendations subsequent to a conviction for a crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80] that demonstrate a decrease in propensity toward the behavior that previously caused the applicant to become convicted;*
 - 2) *License or recovery permit holder's successful participation in special programs or counseling groups designed to decrease the propensity toward the behavior that previously caused the applicant to become convicted of a crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80].*

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART P: VEHICLE IDENTIFICATION

Section 1480.400 Vehicle Identification Requirement (Repealed)

- a) ~~Each vehicle utilized to perform actual repossession under the authority of a repossession agency's license must have painted or affixed to both sides of the cab or power unit the legal name of the repossession agency and the license number as both appear on the license. Vehicles used solely for the purpose of locating collateral are not required to comply with the identification requirements of this Section.~~
- b) ~~Letters and other characters used to comply with subsection (a) must be at least 2 inches high and ½ inch wide. The characters must be in a color contrasting with~~

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~~the background color of the vehicle so as to be distinguishable during daylight at a distance of 50 feet while the vehicle is not in motion.~~

- e) ~~Letters and other characters for vehicles under 9,000 pounds gross vehicle weight must be at least ½ inch high and ⅛ inch wide. The characters must be in a color contrasting with the background color of the vehicle so as to be distinguishable during daylight at a distance of 25 feet while the vehicle is not in motion.~~
- d) ~~It is a violation of this Part to display more than one identifier on the power unit of a vehicle.~~
- e) ~~The license number as it appears on the sides of the vehicle must be preceded by "ILL.C.C."~~
- f) ~~A licensed repossession agency shall carry in any vehicle utilized under its license a copy of its repossession agency license.~~

(Source: Repealed at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART Q: LIABILITY OF REPOSSESSION AGENCY

Section 1480.410 Responsibility and Liability

- a) The repossession agency shall be responsible and liable for all operations under the authority of its license and for supervision and control of all equipment and personnel used in its operations.
- b) ~~The repossession agency shall be responsible and liable for all operations under the authority of its license, regardless of whether the equipment is owned or leased by the repossession agency.~~
- b)e) The repossession agency shall be responsible and liable for acts of its personnel under the authority of its license, regardless of the employee or independent contractor classifications.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART R: REQUIRED NOTIFICATIONS~~NOTIFICATION TO LAW ENFORCEMENT~~

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Section 1480.415 Notification to Law Enforcement Prior to Repossession

- a) *Prior to a repossession, the licensed repossession agency or repossession agency employee shall notify the appropriate law enforcement agency located in the jurisdiction in which the licensed repossession agency or repossession agency employee plans to perform the repossession. [225 ILCS 422/105]*
- b) The following information shall be provided as part of the notification:
 - 1) Name of the repossession agency;
 - 2) License number of the repossession agency;
 - 3) Color, make, model, vehicle identification number (VIN) if applicable, serial number if applicable, and a general description of collateral to be repossessed.
- c) Acceptable notification shall be made by the means of a phone, fax, email or other electronic communication.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.416 Notification to Law Enforcement Following Repossession

- a) *Within 30 minutes after the completion of the repossession, the licensed repossession agency or repossession agency employee must notify the appropriate law enforcement agency that the repossession has occurred within its jurisdiction. [225 ILCS 422/105]*
- b) The following information shall be provided as part of the notification:
 - 1) Name of the repossession agency;
 - 2) License number of the repossession agency;

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- 3) Color, make, model, vehicle identification number (VIN) if applicable, serial number if applicable, and a general description of collateral repossessed;
- 4) Date and time the repossession was completed.

c) [Acceptable notification shall be made by the means of a phone, fax, email or other electronic communication.](#)

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.417 Record of Notifications [Made to Law Enforcement](#)

- a) Repossession agencies must maintain records documenting the notifications made [to law enforcement.](#)
- b) The records shall include:
 - 1) Date and time of each notification;
 - 2) Law enforcement agency notified;
 - 3) All of the information required to be provided pursuant to Sections 1480.~~415~~⁴⁵ and 1480.~~416~~⁴⁶.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

[Section 1480.418 Notification of Conviction to the Commission](#)

- a) [The repossession agency must notify the Commission in writing of its conviction for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. \[225 ILCS 422/80\]](#)
- b) [The sole proprietor of a repossession agency that is a sole proprietorship, any partner of a repossession agency that is a partnership, any corporate officer of a repossession agency that is a corporation or any member of a repossession agency](#)

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that is a limited liability company must notify the Commission in writing of his or her conviction for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80]

- c) Any Class "MR" license holder, Class "E" recovery permit holder and Class "EE" recovery permit holder must notify the Commission in writing of his or her conviction for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession. [225 ILCS 422/80]
- d) Upon notification and verification of a conviction for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80] of a Class "MR" license holder or a Class "E" or Class "EE" recovery permit holder, the Commission shall immediately suspend the respective license or recovery permit. The matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the license or permit holder is unfit to hold the license or recovery permit by reason of conviction.
- e) Upon notification and verification of a conviction for any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80] of the repossession agency license holder or the sole proprietor if the license holder is a sole proprietorship, any partner of the license holder that is a partnership, any officer of the license holder that is a corporation or any member of the license holder that is a limited liability company, the Commission shall immediately suspend the repossession agency license. The matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the license holder is unfit to hold the license by reason of conviction.
- f) Notification of conviction to the Commission shall be made on forms and contain the information prescribed by the Commission. Incomplete or incorrect notifications shall be refused or rejected by the Commission. Notification of

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convictions must be received by the Commission no later than 7 days after the entry of judgment of conviction. Notifications must be filed with the Commission's Transportation Division at the following address:

Illinois Commerce Commission
Transportation Division
527 East Capitol Avenue
Springfield, Illinois 62701

(Source: Added at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART S: ENFORCEMENT

Section 1480.420 Enforcement of the Act (Repealed)

The enforcement provisions in Section 80 of the Act shall govern the enforcement of the Act and this Part. Provisions of Section 18c-1704(4) and Section 18c-1705 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1704(4) and 18c-1705] shall likewise govern the enforcement of the Act.

(Source: Repealed at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.430 Enforcement Proceedings and Imposition of Sanctions

When the Commission has reason to believe that a person has committed a violation of the Act or this Part, it may conduct an operating practices proceeding to impose sanctions including, but not limited to, the suspension or revocation of the respondent's license, recovery permit or registration, the assessment of civil penalties, or a combination of sanctions consistent with the Act. In deciding whether to conduct an operating practices proceeding, the Commission will consider, among other factors, the severity of the offense and; the probability of guilt, and possible effects of sudden suspension or revocation of the repossession agency's customers.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.440 Informal Settlement in Lieu of Formal Proceeding

Prior to the institution of formal enforcement proceedings by the Commission staff before the Commission, a respondent shall be given the opportunity to settle, at an informal staff level, any

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controversy regarding the respondent's alleged illegal activity under the Act or this Part.

- a) The Notice of Alleged Violation and Opportunity to Settle (NAVOS) setting forth the alleged violations of the Act or this Part shall be served on the respondent and shall specify the procedure for the respondent to exercise his or her option to settle. Included will be instructions to telephone or write to the specific Commission staff member assigned to the case to request and schedule a settlement conference if the respondent chooses to exercise the settlement option. The respondent shall have 20 days from the date of service to exercise his or her option to settle.
- b) Monetary settlements specified in the NAVOS shall be based upon the minimum \$100 and maximum amounts per violation set forth in Section 80 of the Act ~~225 ILCS 422/80~~.
- c) An amount less than the minimum established in the NAVOS may be agreed upon between the staff of the Commission and the respondent during informal settlement discussions. The agreed upon~~This lesser~~ amount shall be incorporated in a stipulated settlement agreement presented to the Commission for approval or rejection according to Section 1480.440, pursuant to the provisions of Section 18c-1705 of the Illinois Commercial Transportation Law.
- d) Stipulated Settlement Agreements. The Commission staff shall have the power to negotiate and sign proposed settlements of enforcement proceedings by written stipulation. The Commission may accept a reasonable monetary settlement and any other reasonable terms stipulated between the respondent and staff, with or without a finding of violations at hearing. The Commission shall review the proposed settlements within 30 days after a stipulation is signed by the parties. Unless a stipulation is suspended for review by order of the Commission served within 30 calendar days after it was signed by the parties, it shall be deemed accepted by operation of law. A stipulation that has been suspended for review shall likewise be deemed accepted by operation of law unless it is rejected by order of the Commission served within 45 days after it was suspended. A stipulation that is deemed accepted under this subsection shall become effective and shall be enforceable in the same manner as an order of the Commission. Orders suspending proposed settlements shall cite reasons for suspension that are specific to the case. Orders rejecting proposed settlements shall recite the grounds on which the settlements are found to be unreasonable and describe the

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evidence that supports the findings.

- e) Settlement amounts shall be determined upon consideration of the respondent's past compliance history, cooperation with authorities in the resolution of the dispute, willingness to comply with the Act and this Part, the type of violation, the amount of revenue realized from the unlawful activities, and the number of violations.
- f) If a settlement agreement is not reached, the matter will be set for hearing pursuant to the Act and the Commission's Rules of Practice (83 Ill. Adm. Code 200) before an Administrative Law Judge.
- g) The respondent's right to a hearing and his or her position at hearing will not be prejudiced in any way if settlement is not reached.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.450 Initiation of Operating Practices Proceeding

- a) An operating practices proceeding shall be initiated by Commission staff through the issuance of a Complaint that shall set forth the alleged violations of the Act. The Complaint and any notice in the subsequent proceedings may be served by personal delivery~~shall be served~~ on the respondent, or by registered or certified mail to the address last specified by the respondent in the last notification to the Commission. [225 ILCS 422/140]~~by certified mail, return receipt requested, at the last address known to the Commission, or by personal service if the respondent is not licensed by the Commission and service by mail cannot be accomplished.~~
- b) The respondent shall have 3020 days from the date of service of the Complaint to file a verified responsive pleading with the Commission. Failure to respond within the specified time shall result in the matter being set for hearing. Notice of the time, date and place for the hearing shall be served~~mailed~~ to the respondent at least 30 days before the date set for the hearing. The written responsive pleading shall be served by personal delivery, certified delivery, or certified or registered mail to the Commission. [225 ILCS 422/140]
- c) At the time and place fixed in the notice, the Commission shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity

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to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Commission may continue such hearing from time to time. At the discretion of the Commission, the respondent's license, registration or recovery permit may be suspended or revoked, if the evidence constitutes sufficient grounds for such action under the Act. [225 ILCS 422/140]

- d)e) All matters set for hearing as a result of this Section shall be conducted in accordance with the Act and the Commission's Rules of Practice (83 Ill. Adm. Code 200). The Commission's Rules of Practice shall be utilized in addition to, but not in lieu of, the provisions of the Act. In case of a conflict between the provisions of the Act and the Commission's Rules of Practice, the Act controls.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.460 Failure to Appear at Hearing

Respondent's failure to appear at the hearing set for the alleged violations ~~at~~ issue shall constitute a waiver of respondent's right to appear to contest the alleged violations. The Administrative Law Judge shall find a respondent that fails to appear at hearing in default.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.470 Service of Order

~~Orders~~Service of orders shall be served upon the respondent by personal delivery to the respondent, or by registered or certified mail to the address last specified by the respondent in the last notification to the Commission~~made by certified mail, return receipt requested.~~ [225 ILCS 422/140]

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.480 Standards for the Assessment of Civil Penalties

- a) In determining whether to assess civil penalties, the Commission shall consider the following factors:
- 1) The lack of mitigating circumstances, including:

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- A) Whether the violation's occurrence was attributable to causes beyond the respondent's control, rather than to respondent's fault or intent; and
 - B) Whether the violation's occurrence was attributable to action by the Commission that precluded compliance;
- 2) The lack of good faith or intent, including:
 - A) The past compliance history of the respondent; and
 - B) Whether a violation is the result of willful conduct or comes about through mistake, inadvertence or negligence;
 - 3) The financial ability of the respondent to pay the penalties assessed;
 - 4) The degree to which the violative conduct was harmful to the public; and
 - 5) The financial benefit accruing to the respondent as a result of its illegal activities.
- b) The Commission's consideration shall be limited to only those violations for which evidence exists. It shall be the burden of the respondent to establish a compelling reason why the civil penalty should be mitigated.
- c) Persons found to have committed one or more violations for which civil penalties may be assessed shall be entitled to have those civil penalties determined in accordance with the following procedure:
- 1) A numerical value from 0 to 5 shall be assigned to each of the following factors:
 - A) Lack of mitigating circumstances;
 - B) Lack of good faith or intent;
 - C) Financial ability to pay;

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- D) Degree to which the violative conduct was harmful to the public; and
- E) Financial benefit accruing to the respondent as a result of its illegal activities.
- 2) The values assigned shall be summed. The sum shall be divided by the maximum possible weighted value per violation (25) and then multiplied by \$2,500 per violation. The result will be the civil penalty the Commission shall assess against the respondent.
- d) Notwithstanding subsection (c), in the context of an Informal Settlement in Lieu of Formal Proceeding, when the settlement would conserve the resources of the Commission and expedite the disposition of the Commission's caseload without jeopardizing the regulatory goals of the Act and this Part, a lesser penalty may be assessed.
- e) Notwithstanding subsection (c), in the context of enforcement by administrative citations in accordance with Subpart U, the Commission may establish reduced maximum fines for violations, and the fine imposed shall not exceed the amount of the fine indicated on the administrative citation.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.490 Payment of Civil Penalties

Whenever the Commission assesses a civil penalty under this Part:

- a) Payment of the civil penalty shall be made by certified or cashier's check, money order, or in installments by any of these~~the foregoing~~ means ~~after execution of a promissory note containing an agreement for judgment.~~;
- b) All remittances shall be made payable to the Illinois Commerce Commission/TRF and sent to:

Illinois Commerce Commission
Transportation Division

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527 East Capitol Avenue
Springfield, Illinois 62701

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART T: PROBATION

Section 1480.500 Standards

In deciding whether to place a license, [registration](#) or permit holder on probation, the Commission shall consider the following factors:

- a) Lack of good faith or intent, including:
 - 1) Past compliance history of the license, [registration](#) or permit holder; and
 - 2) Whether a violation is the result of willful conduct or comes about through mistake, inadvertence or negligence;
- b) Degree to which the violative conduct was harmful to the public;
- c) Financial benefit accruing to the [license, registration or permit holder](#)~~respondent~~ as a result of its illegal activities;
- d) Mitigating circumstances, including:
 - 1) Whether the violation's occurrence was attributable to causes beyond the [license, registration or permit holder's](#)~~respondent's~~ control rather than to [license, registration or permit holder's](#)~~respondent's~~ fault or intent; and
 - 2) Whether the violation's occurrence was attributable to action by the Commission that precluded compliance;
- e) Whether probation would deprecate the seriousness of the license, [registration](#) or permit holder's conduct; and
- f) Any other factors the Commission deems appropriate.

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(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.510 Time and Conditions of Probation

When a license, [registration](#) or permit holder is placed on probation, the Commission shall impose a period and shall specify the conditions of probation. Conditions of probation shall be that the license, [registration](#) or permit holder:

- a) Not violate any criminal statute of any jurisdiction;
- b) Not violate the Act or this Part;
- c) If in violation of the Act or this Part, comply with the Act or this Part and cease and desist from further or any future violations of the Act or this Part;
- d) If engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, cease and desist from that conduct in the future;
- e) If convicted of any crime under the laws of the United States or any U.S. state or territory that is a felony, misdemeanor with an essential element of dishonesty, or crime that is related to the practice of the profession, comply with all the terms of the sentence, probation, conditional discharge, etc.;
- f) If in violation of any court order regarding payment of child support or noncompliance with certain processes relating to paternity or support proceedings, comply with the court order or the certain processes and cease and desist from further or future violations of the court order;
- g) If practicing or attempting to practice under a name other than the full name shown on the license, [registration](#) or recovery permit or any other legally authorized name, cease and desist from further or future such practices and comply with all the applicable laws and regulations;
- h) If soliciting professional services by using false or misleading advertising, cease and desist from further or future false or misleading advertising and comply with all the applicable laws and regulations;

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- i) The Commission may, in addition, impose other reasonable conditions relating to the nature of the offense or the rehabilitation of the license, [registration](#) or recovery permit holder.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

Section 1480.520 Termination of Probation

- a) The Commission may terminate probation upon violation of a condition of probation or if warranted by the conduct of the license, [registration](#) or permit holder. The Commission shall conduct a hearing of the alleged violation or conduct and shall notify the license, [registration](#) or permit holder of the date, time and place of termination of the probation hearing.
- b) The Commission may, after termination of probation, refuse to issue or renew or may revoke any license, [registration](#) or recovery permit or may suspend, fine or take any disciplinary action that the Commission may deem proper.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART U: ADMINISTRATIVE CITATIONS

Section 1480.530 Administrative Citations

- a) Violations of the Act and this Part shall be enforceable by administrative citations under this Subpart or as otherwise provided by in the Act or this Part.
- b) Upon issuance of an administrative citation for a violation of the Act or this Part, Commission staff shall serve, on the date of the violation or anytime thereafter, the administrative citation upon the person or entity or the person's or entity's authorized agent for service of process and shall include, at minimum, the following information:
 - 1) Contact information of the alleged violator;
 - 2) Location, time and date of the offense cited;
 - 3) Statement specifying the provision of which the person was in violation;

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- 4) Monetary penalty;
 - 5) Signature of the Enforcement Officer or Investigator issuing the citation;
and
 - ~~6) Signature of the person receiving the citation; and~~
 - ~~6)7) Instructions for settling the citation or appearing at hearing.~~
- c) Any person served with an administrative citation shall have 30 days from the date of service of the administrative citation to settle the matter for the minimum monetary penalty indicated for the offense cited on the administrative citation.
 - d) If a person served an administrative citation does not settle within 30 days from the service date of the administrative citation, the administrative citation shall constitute a complaint for civil penalties and this matter shall be set for a formal oral hearing before an Administrative Law Judge at a date, time and location to be specified by the Commission.
 - e) Respondent's failure to appear at the hearing set for the alleged violations at issue, shall constitute a waiver of respondent's right to appear to contest the alleged violations. The Administrative Law Judge shall rule on the alleged violations without further process.
 - f) Any party of record to the administrative citation hearing seeking appeal of the Administrative Law Judge's ruling shall file a motion to reopen and reconsider.
 - 1) The motion must be filed via United States mail at the following address:

Illinois Commerce Commission
Processing Department
527 East Capitol Avenue
Springfield, Illinois 62701
 - 2) The motion must set forth:
 - A) Specific grounds and reasons for the motion;

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- B) Specific issues for which the motion is sought;
 - C) Brief statement of proposed additional evidence, if any, and an explanation why the evidence was not previously adduced; and
 - D) Relief sought.
- 3) A motion alleging new facts shall be verified.
 - 4) The Administrative Law Judge shall grant or deny the motion, in whole or in part. If Administrative Law Judge grants the motion in whole or in part, the matter shall be set for hearing at a time and date specified by the Commission.
- g) ~~Any party of record to the administrative citation hearing seeking appeal of the Administrative Law Judge's ruling on a motion to reopen and reconsider shall file~~ Any party of record to the administrative citation hearing seeking appeal of the Administrative Law Judge's ruling on a motion to reopen and reconsider shall file ~~motion for rehearing pursuant to Section 160 of the Act, which shall constitute a final remedy in administrative citation matters before the Commission, shall be~~ filed by any party of record to an administrative citation hearing seeking appeal of the Administrative Law Judge's ruling on a motion to reopen and reconsider or the Administrative Law Judge's ruling on a citation at a hearing held pursuant to ~~subsection (f)(4).~~ subsection (f)(4).
- 1) The motion must set forth:
 - A) Specific grounds and reasons for the motion;
 - B) Specific issues for which rehearing is sought;
 - C) Brief statement of proposed additional evidence, if any, and an explanation why the evidence was not previously adduced; and
 - D) Relief sought.
 - 2) A motion alleging new facts shall be verified.
 - 3) The Commission shall grant or deny the motion, in whole or in part.

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(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

SUBPART V: FEES

Section 1480.540 Fees

The following fees shall apply:

- | | | |
|----|---|-------------------------------|
| a) | Form to register a remote <u>Remote</u> storage facility | \$300 |
| | 1) <u>Registration of remote storage facility</u> | <u>\$300</u> |
| | 2) <u>Reinstatement of suspended or revoked registration of remote storage facility</u> | <u>\$100</u> |
| b) | Replacement of a license or permit | \$25 |
| c) | Revision of a license or permit | \$25 |
| d) | Insufficient funds | \$25 |
| e) | Recovery tickets <u>Equipment Lease Form</u> | \$15 |
| f) | Application to transfer a repossession agency license | \$900 <u>\$825</u> |
| g) | Application for a license | |
| | 1) Class "R" (recovery agency) | \$900 <u>\$825</u> |
| | 2) Class "RR" (branch office) | \$450 <u>\$425</u> |
| | 3) Class "MR" (recovery agency manager) | \$350 <u>\$325</u> |
| h) | Application for a recovery permit | |
| | 1) Class "E" (employee) | \$125 <u>\$75</u> |
| | 2) Class "EE" (recovery agent intern) | \$125 <u>\$75</u> |
| i) | Application to renew a recovery permit | |
| | 1) Class "E" (employee) | \$125 <u>\$75</u> |
| | 2) Class "EE" (recovery agent intern) | \$125 <u>\$75</u> |

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j)	Application to renew a license	
	1) Class "R" (recovery agency)	\$900 \$825
	2) Class "RR" (branch office)	\$450 \$425
	3) Class "MR" (recovery agency manager)	\$350 \$325
k)	Application to reinstate a revoked recovery permit	
	1) Class "E" (employee)	\$125 \$75
	2) Class "EE" (recovery agent intern)	\$125 \$75
	<u>l)</u> <u>Application to reinstate a suspended recovery permit</u>	
	<u>1)</u> <u>Class "E" (employee)</u>	<u>\$50</u>
	<u>2)</u> <u>Class "EE" (recovery agent intern)</u>	<u>\$50</u>
	<u>m)</u> Application to reinstate a revoked license	
	1) Class "R" (recovery agency)	\$900 \$825
	2) Class "RR" (branch office)	\$450 \$425
	3) Class "MR" (recovery agency manager)	\$350 \$325
	<u>n)</u> Application to reinstate a suspended repossession agency's license	
	1) Class "R" (recovery agency)	\$200
	2) Class "RR" (branch office)	\$100
	<u>3)</u> <u>Class "MR" (recovery agency manager)</u>	<u>\$75</u>
	<u>o)</u> Application to restore an expired recovery permit	
	1) Class "E" (employee)	\$50 \$25
	2) Class "EE" (recovery agent intern)	\$50 \$25
	<u>p)</u> Application to restore an expired license	
	1) Class "R" (recovery agency)	\$200

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	2)	Class "RR" (branch office)	\$100
		3)	Class "MR" (recovery agency manager)
	<u>qp</u>)	Application to resume active status of recovery permit	
		1)	Class "E" (employee)
		2)	Class "EE" (recovery agent intern)
	<u>rq</u>)	Application to resume active status of a license	
		1)	Class "R" (recovery agency)
		2)	Class "RR" (branch office)
		3)	Class "MR" (recovery agency manager)
	<u>sf</u>)	Application for approval of recovery manager certification program	
	<u>ts</u>)	Application for approval of repossession agency employee certification program	
	<u>ut</u>)	Criminal history records check	the actual cost of conducting the records check incurred by the Commission

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Massage Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1284
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1284.20	Amendment
1284.30	Amendment
- 4) Statutory Authority: Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) Effective Date of Rule: February 24, 2014
- 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 Professional Regulation and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 18400; November 21, 2013
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These proposed amendments will require an applicant to verify that their fingerprints have been processed by a licensed fingerprint

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

vendor, as required by Section 15(b) of the Act [225 ILCS 57/15(b)]. Additionally, these amendments will add a “credit hours” equivalency as an option when applying for licensure to the already existing classroom hours language, to aid massage therapy students when applying for federal student loans.

- 16) Information and questions regarding this adopted rule 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

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1284

MASSAGE LICENSING ACT

Section

1284.10	Requirements for Licensure Under Section 20 of the Act (Grandfather) (Repealed)
1284.20	Approved Programs
1284.30	Application for Licensure
1284.40	Endorsement
1284.45	Display of License
1284.50	Fees
1284.60	Renewals
1284.70	Inactive Status
1284.80	Restoration
1284.90	Continuing Education
1284.110	Granting Variances

AUTHORITY: Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 28 Ill. Reg. 13366, effective September 21, 2004; amended at 30 Ill. Reg. 12114, effective June 29, 2006; amended at 35 Ill. Reg. 12885, effective July 20, 2011; amended at 37 Ill. Reg. 13417, effective January 1, 2014; amended at 38 Ill. Reg. 5880, effective February 24, 2014.

Section 1284.20 Approved Programs

- a) Effective January 1, 2014, an applicant's massage therapy training must meet the following minimum criteria:
 - 1) A minimum of 600 clock hours or its equivalent in credit hours of supervised classroom and supervised hands-on instruction. Should an applicant not meet the required number of classroom/hands-on hours, the Division may require completion of additional coursework, as identified in

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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subsection (a)(2), prior to licensure. For purposes of this subsection (a)(1), "supervised" means the supervisor is physically on-site, qualified and immediately available.

- 2) The minimum required subject matter and activities are:
 - A) Human anatomy, physiology, pathology and kinesiology.
 - B) Massage therapy theory, technique and practice, which may include but is not limited to: effleurage/gliding; petrissage/kneading; compression; friction tapotement/percussion; vibration; direct pressure; superficial warming techniques; pumping; stretching; jostling; shaking; rocking.
 - C) Contraindications, benefits, universal precautions, body mechanics, history, client data collection, documentation, ethics, business and legalities of massage, professional standards including draping and modesty, therapeutic relationships and communications.
- 3) Each student must maintain a minimum grade of 70% for all massage therapy related course and clinical work as described in this Section.
- b) A massage therapy program must meet the following minimum criteria:
 - 1) Maintain a written program philosophy, objectives and plan of organization;
 - 2) Have written plans of study, including prerequisite, requisite and elective courses;
 - 3) Maintain course outlines or syllabi for all massage therapy courses;
 - 4) Provide a student handbook;
 - 5) Have a faculty that consists of a sufficient number of full and part-time instructors to ensure that the educational obligations to the student are fulfilled. Lab/clinical/community course core (lead) faculty must

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demonstrate competence in their respective areas of teaching as evidenced by a minimum of 2 years or 2000 hours of experience in their field.

Human sciences course core (lead) faculty (anatomy, pathology, physiology) must demonstrate competence in their respective areas of teaching as evidenced by a minimum of 2 years or 2000 hours experience in their field and/or by appropriate degrees/certificates from approved colleges/schools/institutions/programs;

- 6) If a program utilizes faculty assistants, it shall establish and maintain policies that set forth qualifications, duties and procedures for use of these personnel. Faculty assistants shall not be used as substitutes or replacements for regular faculty; shall not be responsible for the overall evaluation of any student; and shall work under the direct supervision of approved faculty;
 - 7) Maintain permanent student records that summarize the credentials for admission, attendance, grades and other records of performance;
 - 8) The ratio of students to faculty in the lab/clinical/community area shall not exceed 20 students to 1 instructor with no more than 10 student therapists and 10 serving as clients; and
 - 9) All hands-on practice must be done on a living human being.
- c) A massage therapy program from another jurisdiction must have substantially similar criteria for an applicant to have his or her credentials accepted for licensure by the Department.

(Source: Amended at 38 Ill. Reg. 5880, effective February 24, 2014)

Section 1284.30 Application for Licensure

- a) Any applicant for a massage therapy license shall meet all of the following requirements:
 - 1) The applicant is at least 18 years of age and of good moral character;

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- 2) The applicant has successfully completed an approved massage therapy program in accordance with Section 1284.20 or a substantially similar massage therapy program from another jurisdiction and passed the National Certification Board for Therapeutic Massage & Bodywork's (NCBTMB) examination or the Massage & Bodywork Licensing Examination (MBLEx) administered by the Federation of State Massage Therapy Boards (FSMTB).
 - 3) Should an applicant not meet the required number of classroom/hands-on hours required for licensure, the Division may require completion of additional coursework prior to licensure.
 - 4) Verification of fingerprint processing from the Illinois Department of State Police (ISP), an ISP live scan vendor whose equipment has been certified by ISP, or a fingerprint vendor agency licensed by the Division. Out-of-state residents unable to utilize the ISP electronic fingerprint process may submit to ISP one fingerprint card issued by ISP, accompanied by the fee specified by ISP. Fingerprints shall be taken within the 60 days prior to application. ~~Either:~~
 - A) ~~Verification of electronic fingerprint processing from the Illinois Department of State Police or one of the Illinois State Police approved vendors. Applicants shall contact one of the approved vendors for fingerprint processing; or~~
 - B) ~~Out-of-state residents unable to utilize the Illinois State Police electronic fingerprint process may submit to one of the Illinois State Police approved vendors one fingerprint card issued by the Illinois State Police, accompanied by the fee specified by the vendor; and~~
 - 5) Pay the required fee specified in Section 1284.50.
- 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:

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- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Massage Licensing Board (Board) to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 38 Ill. Reg. 5880, effective February 24, 2014)

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- 1) Heading of the Part: Real Estate Appraiser Licensing
- 2) Code Citation: 68 Ill. Adm. Code 1455
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1455.10	Amend
1455.240	Amend
- 4) Statutory Authority: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458]
- 5) Effective Date of Rule: February 24, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Division of Professional Regulation and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 18407; November 22, 2013
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to Title XI of the federal Financial Institutions Recovery, Reform, and Enforcement Act of 1989, as amended, the Appraisal Standards Board of the Appraisal Foundation on October 5, 2013, issued a revised edition

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of the Uniform Standards of Professional Appraisal Practice (USPAP) effective January 1, 2014. Section 10-10 of the Real Estate Appraiser Licensing Act of 2002 (225 ILCS 458) requires that the Department of Financial and Professional Regulation adopt the current edition of USPAP by rule. These adopted amendments codify the updated USPAP requirement.

- 16) Information and questions regarding this adopted rule 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

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Trainee Appraiser License; Application by Non-Resident for Licensure by Endorsement

1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Reinstatement of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Application for Military Deferral; Expiration Date

1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License (Repealed)

1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Qualifying Education Requirements; State Certified General Real Estate

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- Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee Appraiser; Non-Resident Qualifying Education; In Lieu of Requirements; Foreign Degrees
- 1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real Estate Trainee Appraiser; Non-Resident Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section

- 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
- 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
- 1455.190 Verification of Experience Credit
- 1455.195 Acceptable Experience Credit and Request for Reconsideration
- 1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section

- 1455.205 Record Keeping Requirements
- 1455.210 Notification of Name Change
- 1455.220 Assumed Name
- 1455.230 Address Change
- 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

SUBPART F: ENFORCEMENT PROVISIONS

Section

- 1455.250 Appraiser Responsibilities as Relating to Appraisal Management Companies
- 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan
- 1455.270 Additional Education; Reporting Requirements
- 1455.280 Administrative Warning Letter
- 1455.290 Cooperation Required with the Division
- 1455.300 Felony Convictions; Discipline of Other Professional License; Notification
- 1455.310 Unprofessional Conduct

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- 1455.315 Supervisor and Trainee Requirements (Repealed)
1455.316 Supervisor and Trainee Requirements

SUBPART G: ADMINISTRATIVE PROVISIONS

Section

- 1455.320 Fees
1455.330 Granting of Variances
1455.340 Duties of the Secretary
1455.345 IDFPR Coordinator of Real Estate Appraisal

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section

- 1455.350 Education Provider Application; Requirements
1455.360 Qualifying Education Course Requirements of Education Providers
1455.365 Practicum Course Requirements
1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser;
State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee
Appraiser
1455.380 Examples of Acceptable Pre-License Education Courses (Repealed)
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for
Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Qualifying Education
and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion
1455.445 Grounds for Education Provider Discipline

SUBPART I: TRANSITION PROVISIONS

Section

- 1455.450 Appraiser Applicants – Transition Provisions (Repealed)
1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition
Provisions (Repealed)

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SUBPART J: HEARINGS

Section

- 1455.470 Applicability (Repealed)
1455.480 Administrative Law Judges (Repealed)
1455.490 Disqualification of an Administrative Law Judge (Repealed)
- 1455.APPENDIX A Caption for a Case Filed by the Division (Repealed)
1455.APPENDIX B Caption for a Case Filed by the Petitioner (Repealed)

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20815, effective November 20, 1998; old Part repealed at 26 Ill. Reg. 10883 and new Part adopted by emergency rulemaking at 26 Ill. Reg. 10844, effective July 1, 2002, for a maximum of 150 days; old Part repealed at 26 Ill. Reg. 17689 and new Part adopted at 26 Ill. Reg. 17692, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 14653, effective August 29, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 824, effective December 29, 2003; amended at 29 Ill. Reg. 16445, effective October 13, 2005; amended at 31 Ill. Reg. 4741, effective March 9, 2007; amended at 33 Ill. Reg. 7121, effective May 14, 2009; amended at 35 Ill. Reg. 1967, effective January 20, 2011; amended at 35 Ill. Reg. 19505, effective November 17, 2011;

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amended at 37 Ill. Reg. 2668, effective April 1, 2013; amended at 37 Ill. Reg. 19189, effective December 31, 2013; amended at 38 Ill. Reg. 5887, effective February 24, 2014.

SUBPART A: DEFINITIONS

Section 1455.10 Definitions

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

"Act" means the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

"Applicant" means a person applying for licensure under this Act as a State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Trainee Appraiser. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act [5 ILCS 100].

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services:

administers networks of independent contractors or employee appraisers to perform real estate appraisal assignments for clients;

receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or

otherwise serves as a third-party broker of appraisal management services between clients and appraisers. [225 ILCS 459/10]

"AQB 2008 Criteria" means the Real Property Appraiser Qualification Criteria (effective January 1, 2008, no later amendments or editions), published by the

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NOTICE OF ADOPTED AMENDMENTS

Appraiser Qualifications Board of The Appraisal Foundation, 1155 15th Street, NW, Suite 1111, Washington DC 20005.

"Board" or "AQB" means the Appraiser Qualification Board.

"Classroom hour" or "hour" as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division.

"Client" means the party or parties who engage an appraiser, by employment or contract, in a specific assignment. If an appraisal management company is the party engaging the appraiser, the appraisal management company is considered the client.

"Continuing education" means education that is creditable toward the education requirements that must be satisfied to renew licensure or certification, as set forth in Section 1455.160.

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

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

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

"Experience/work log" means the form described in Section 1455.190 that verifies an appraiser's experience and work history.

"Jurisdictional exception" means an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with USPAP.

"License" means a certificate of authority, permit or registration issued by the Division.

"Licensee" means a person who has been issued a license under the Act or this Part. Anyone who holds himself or herself out as a licensee or who is accused of

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unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Master agreement" means a written service agreement between a traditional client and a real estate appraiser or panel of approved appraisers.

"Non-traditional client" means the Division or an approved practicum course provider.

"Practicum course instructor" means a Certified Residential Appraiser or a Certified General Appraiser in good standing with the Division who is authorized to conduct an approved practicum course.

"Qualifying education" means education that is creditable toward the requirements set forth in Section 1455.150.

"Quantitative experience" means actual time spent on the appraisal process.

"Residential" means composed of 1 to 4 residential units.

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

"Traditional client" means a client who hires an appraiser to complete an assignment by employment or contract for business purposes.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published by the Appraisal Standards Board of The Appraisal Foundation, 1155 15th Street N.W., Suite 1111, Washington DC 20005 (effective January 1, ~~2014~~²⁰¹², no later amendments or editions).

"Web Form" means a web page that allows a user to enter data that is sent to a server for processing.

"Written Engagement" means a defined relationship between a real estate appraiser or appraisers and the client. It states the terms, conditions and scope of

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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the appraisal service request, including but not limited to compensation.

(Source: Amended at 38 Ill. Reg. 5887, effective February 24, 2014)

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

- a) Pursuant to Section 10-10 of the Act, the ~~2014~~2012 USPAP are hereby incorporated by reference with no later amendments or editions.
- b) All real estate appraisers licensed under the Act shall practice in accordance with USPAP except where the standards are contrary to Illinois law or public policy (USPAP, Jurisdictional Exception).
- c) All investigators, board members, auditors and examiners employed or retained by the Division are exempt from the requirements of USPAP Standard 3 while performing an investigation, audit or examination. If the Division files a formal complaint, a USPAP Standard 3 review will be utilized by the Division when available, except the Division may limit the scope of Standard 3 to exclude valuation. USPAP Standard 3 review shall be provided in cases in which an existing appraisal report is central to the proceeding.

(Source: Amended at 38 Ill. Reg. 5887, effective February 24, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYWITHDRAWAL OF SUSPENSION
OF EMERGENCY RULE

ILLINOIS GAMING BOARD

Heading of the Part: Video Gaming (General)

Code Citation: 11 Ill. Adm. Code 1800

Section Numbers: 1800.110 1800.615 1800.1620
1800.310 1800.650 1800.1630
1800.320 1800.690 1800.1640
1800.610 1800.1610 1800.1650

Date Originally Published in the *Illinois Register*: 12/13/13
37 Ill. Reg. 19882

Date Suspension Published in *Illinois Register*: 1/31/14
38 Ill. Reg.

Date Suspension Became Effective: 1/14/14

Date Filing Prohibition Withdrawn: The date the Board files its repeal of the emergency rule.

Pursuant to Section 5-125 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on 2/18/14, has withdrawn the Suspension against the Illinois Gaming Board's rulemaking, contingent upon, and effective with, the Board's repeal of this emergency rule. The Committee originally issued this Suspension at its 1/14/14 meeting.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYWITHDRAWAL OF SUSPENSION
OF EMERGENCY RULES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities

Code Citation: 89 Ill. Adm. Code 147

Section Numbers: 147.335(a)(7)(B)
147.355(b)

Date Originally Published in the *Illinois Register*: 1/10/14
38 Ill. Reg. 1205

Date Suspension Published in *Illinois Register*: 1/31/14
38 Ill. Reg. 3385

Date Suspension Became Effective: 1/14/14

Date Suspension Withdrawn: The date HFS adopts the attached agreed-upon modifications to this emergency rule.

Pursuant to Section 5-125 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on 2/18/14, has withdrawn the suspension against Sections 147.335(a)(7)(B) and 147.355(b) of the Department of Healthcare and Family Services' emergency rule, contingent upon, and effective with, HFS adopting the agreed-upon modifications to this emergency rule. The Committee originally issued this Suspension at its 1/14/14 meeting.

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 February 19, 2014 through February 24, 2014. The rulemakings are scheduled for review at the Committee's March 19, 2014 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>
4/5/14	<u>Department of Insurance</u> , Summary Document and Disclaimer (50 Ill. Adm. Code 3401)	12/20/13 37 Ill. Reg. 19998	3/19/14
4/6/14	<u>State Board of Education</u> , Gifted Education (23 Ill. Adm. Code 227)	12/6/13 37 Ill. Reg. 19525	3/19/14
4/6/14	<u>State Board of Education</u> , Summer Bridges Program (23 Ill. Adm. Code 232)	12/6/13 37 Ill. Reg. 19530	3/19/14
4/6/14	<u>State Board of Education</u> , Alternative Learning Opportunities Program (23 Ill. Adm. Code 240)	12/6/13 37 Ill. Reg. 19535	3/19/14
4/6/14	<u>State Board of Education</u> , Grants for Arts Education and Foreign Language Education (23 Ill. Adm. Code 265)	12/6/13 37 Ill. Reg. 19555	3/19/14
4/9/14	<u>Secretary of State</u> , Lobbyist Registration and Reports (2 Ill. Adm. Code 560)	12/27/13 37 Ill. Reg. 20628	3/19/14
4/9/14	<u>Department of Central Management Services</u> ,	1/31/14	3/19/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Pay Plan (80 Ill. Adm. Code 310)

38 Ill. Reg.
196

PROCLAMATIONS

2014-54**National School Counseling Week**

WHEREAS, professional school counselors are employed in a variety of school district settings, including private and public, rural, suburban, and urban, and are involved in many different organizations, including, but not limited to, the Illinois School Counselor Association; and,

WHEREAS, school counselors are actively committed to helping students explore their abilities, strengths, interests, and talents as these traits relate to career awareness and development; and,

WHEREAS, school counselors help parents focus on ways to further the educational, personal, and social growth of their children; and,

WHEREAS, school counselors work with teachers and other educators to help students explore their potential and set realistic goals for themselves; and,

WHEREAS, school counselors seek to identify and utilize community resources that can enhance and complement comprehensive school counseling programs and help students become productive members of society; and,

WHEREAS, comprehensive developmental school counseling programs are considered an integral part of the educational process that enables all students to achieve success in school; and,

WHEREAS, it is appropriate that professional school counselors be honored for their unmatched contribution to the quality of life in the State of Illinois and our educational system during a week of recognition; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 3-7, 2014, as **NATIONAL SCHOOL COUNSELING WEEK** in Illinois, in recognition of the contributions of school counselors across the Land of Lincoln.

Issued by the Governor January 21, 2014

Filed by the Secretary of State February 24, 2014

2014-55**Water and Wastewater Operator's Week**

WHEREAS, promoting public health is critically important to keeping the citizens of the State of Illinois healthy; and,

PROCLAMATIONS

WHEREAS, the operation of thousands of water and wastewater systems in the State of Illinois is a vital cog in the mission of public health; and,

WHEREAS, wastewater operator's safeguard the health of the public, the quality of the environment, and the financial investment of wastewater facilities; and,

WHEREAS, water and wastewater treatment systems protect public health and the environment only if they are being accurately operated and maintained by a knowledgeable wastewater operator; and,

WHEREAS, there are nearly 6,200 of these individuals in the State of Illinois as well as a vast support network of professionals who tirelessly work daily to keep the State's potable water and waterway's safe; and,

WHEREAS, this industry which has its roots in the 19th century and is constantly evolving to meet environmental challenges and regulatory requirements is vital to the citizens of the State of Illinois; and,

THEREFORE, I, Pat Quinn, Governor of Illinois, do hereby proclaim March 17-23 as **WATER AND WASTEWATER OPERATOR'S WEEK** in Illinois, and urge all Illinoisans to be aware of the important role of water and wastewater Operators in our daily life.

Issued by the Governor January 21, 2014

Filed by the Secretary of State February 24, 2014

2014-56
Building Safety Month

WHEREAS, our state's continuing efforts to address the critical issues of safety, energy efficiency, water conservation and sustainability in the built environment that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound; and,

WHEREAS, our confidence is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, laborers and others in the construction industry—who work year-round to ensure the safe construction of buildings; and,

WHEREAS, these guardians develop and implement the highest-quality codes to protect Americans in the buildings where we live, learn, work, worship and play; and,

PROCLAMATIONS

WHEREAS, the International Codes, the most widely adopted building safety, energy and fire prevention codes in the nation, are used by most U.S. cities, counties and states; these modern building codes also include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires and earthquakes; and,

WHEREAS, Building Safety Month reminds the public about the critical role of our communities' largely unknown guardians of public safety—our local code officials—who assure us of safe, efficient and livable buildings; and,

WHEREAS, "Building Safety Month: Maximizing Resilience, Minimizing Risks" is the theme for Building Safety Month and encourages all Americans to raise awareness of the importance of building safety; green and sustainable building; pool, spa and hot tub safety and new technologies in the construction industry; and,

WHEREAS, Building Safety Month 2014 encourages appropriate steps everyone can take to ensure that the places where we live, learn, work, worship and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies; and,

WHEREAS, each year, in observance of Building Safety Month, Americans are asked to consider projects to improve building safety and sustainability at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments and federal agencies in protecting lives and property; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2014 as **BUILDING SAFETY MONTH** in Illinois, and encourage all citizens to join with their communities in participation in Building Safety Month activities.

Issued by the Governor February 3, 2014

Filed by the Secretary of State February 24, 2014

2014-57**The Federation Guerrerenses Foundation Day**

WHEREAS, Guerrero, the location where the Mexican flag was born, is a state in Mexico and its capital city is Chilpancingo; and,

WHEREAS, Mexican Americans, including those from Guerrero, have made vast economic and cultural contributions to the Land of Lincoln; and,

PROCLAMATIONS

WHEREAS, located in Chicago, Illinois, The Federation Guerrerenses is a civil association of more than 30 clubs and other groups originating from various regions of the State of Guerrero; and,

WHEREAS, Guerrero organizations based in Chicago began organizing in 1980 to raise funds for community projects; and,

WHEREAS, though many Guerrero clubs had developed partnerships over the years, in 1994 The Federation Guerrerenses was formed to build stronger links between these clubs; and,

WHEREAS, the objective of The Federation Guerrerenses is to provide its member clubs with opportunities to support each other and help the people of Guerrero; and,

WHEREAS, in 1981, Guerrero groups in Chicago began working with the government of Guerrero on numerous projects such as building the road Xonacatla in Cocula Township; and,

WHEREAS, in 1996, the then governor of Guerrero, Francisco Ruiz Massieu, noted the existence of The Federation Guerrerenses; and,

WHEREAS, The Federation Guerrerenses' efforts to improve the lives of the people of Guerrero is admirable and worthy of recognition; and,

THEREFORE, I, Pat Quinn Governor of the State of Illinois, do hereby proclaim February 14, 2014, as **THE FEDERATION GUERRERENSES FOUNDATION DAY** in Illinois, in support of this organization's dedication to serving others and commitment to Guerrero.

Issued by the Governor February 3, 2014

Filed by the Secretary of State February 24, 2014

2014-58**Japanese Earthquake Commemoration Day**

WHEREAS, natural disasters such as earthquakes, windstorms, and floods can strike anywhere on earth, often without warning. These events are usually triggered by environmental factors that cause devastating humanitarian, physiological and economic hardships to affected nations; and,

WHEREAS, on March 11, 2011, the strongest earthquake in Japanese recorded history struck off its northeastern coast. The massive tsunami wave triggered by the impact left a trail of debris among the cities and villages along the 2,100 kilometer stretch of coastline; and,

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WHEREAS, families and friends were lost, homes destroyed and whole towns vanished instantly as the huge tsunami caused unimaginable damage to Japan's East Pacific Ocean front. This disastrous spectacle caused irreparable damage in the hearts and minds of the people, leaving behind a death toll of over 15,000 with another 5,000 missing; and,

WHEREAS, the Osaka Committee of Chicago Sister Cities International and Japan Society of Chicago will be hosting a Japan Earthquake Photography Exhibition, through the generous cooperation of Nikkei, Inc., the leading Japanese business newspaper, that reflects on the immediate aftermath of the earthquake and tsunami, and ongoing recovery efforts; and,

WHEREAS, the Japan Earthquake Photography Exhibition is a reminder of the lives of those lost during this tragedy as well as a celebration of the bravery of first responders whose efforts saved many lives; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 11, 2014 as **JAPANESE EARTHQUAKE COMMEMORATION DAY** in Illinois, in memory of the people of Japan and their courage in facing a natural disaster of great magnitude.

Issued by the Governor February 4, 2014

Filed by the Secretary of State February 24, 2014

2014-59**Coalition for the Remembrance of Elijah Muhammad Day**

WHEREAS, the Coalition for the Remembrance of Elijah Muhammad (C.R.O.E.) was founded in 1987 by Halif Muhammad, Shahid Muslim and Munir Muhammad; and,

WHEREAS, the founders of C.R.O.E. built an "Institution of Higher Learning," where Muslims could learn about the history of the Nation of Islam; and,

WHEREAS, C.R.O.E. TV Productions was established in 1994 by Executive Producer and Host Munir Muhammad to provide a forum for dialogue to increase community awareness; and,

WHEREAS, C.R.O.E. TV Productions is continuing to expand its technological capabilities in order to provide its viewers with the most current information; and,

WHEREAS, the Coalition for the Remembrance of Elijah Muhammad continues to be an important voice in the African-American community and among the general public; and,

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WHEREAS, through its programs and services, C.R.O.E. has demonstrated a strong commitment to serving others and improving communities; and,

WHEREAS, C.R.O.E. is celebrating its 27th Annual Founders' Day on February 9, 2014; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 9, 2014 as **COALITION FOR THE REMEMBRANCE OF ELIJAH MUHAMMAD DAY** in Illinois, in honor of Founders' Day and in recognition of this organization's years of service to others.

Issued by the Governor February 5, 2014

Filed by the Secretary of State February 24, 2014

2014-60
Day of Remembrance

WHEREAS, on February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066, which resulted in the forced removal and incarceration of over 120,000 persons of Japanese ancestry, most of them United States citizens, in federal detention camps scattered throughout the West; and,

WHEREAS, these Japanese Americans were assumed guilty of being disloyal solely on the basis of their race; and,

WHEREAS, in addition to property losses, there were immeasurable damages suffered, such as the loss of individual freedom, the loss of personal human dignity, the loss of income and disruption of careers and education, as well as the psychological trauma of having been innocent victims for several years; and,

WHEREAS, no charge of wrongdoing was ever filed against any Japanese American residing in the security zone; and,

WHEREAS, Japanese Americans volunteered to serve in the 100th Infantry Battalion, the 442nd Regimental Combat Team, and the Military Intelligence Service, and demonstrated exemplary heroism and courage while becoming a highly decorated unit in the U.S. Army; and,

WHEREAS, nearly forty years after the United States Supreme Court decisions upholding the convictions of Fred Korematsu, Minoru Yasui and Gordon Hirabayashi for violations of curfew and Executive Order 9066, it was discovered that officials from the United State Department of Justice had altered and destroyed evidence regarding the loyalty of Japanese Americans and

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resident aliens of Japanese ancestry as well as withheld information from the United States Supreme Court; and,

WHEREAS, on August 10, 1988, President Ronald Reagan signed into law the Civil Liberties Act of 1988, finding that Executive Order 9066 was not justified by national security and that the broad causes were wartime hysteria, race prejudice, and a failure of political leadership; and,

WHEREAS, February 19, 2014, marks the 72nd commemoration of the signing of Executive Order 9066, initiating a grave injustice to Japanese Americans, who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II; and,

WHEREAS, the Chicago History Museum will host a Day of Remembrance program on February 16, 2014; and,

WHEREAS, this annual Day of Remembrance is a reminder of the continued need to be vigilant about protecting our constitutional and civil rights; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 16, 2014, as a **DAY OF REMEMBRANCE** in Illinois, in order to increase public awareness of the events surrounding the forced removal and incarceration of Japanese Americans during World War II.

Issued by the Governor February 5, 2014

Filed by the Secretary of State February 24, 2014

2014-61**National Nutrition Month**

WHEREAS, good nutrition is essential for growth and development, health and well-being; and

WHEREAS, nutritional factors play a large role in the incidence of preventable illness and premature death, and many diseases are associated with being overweight and obesity; and

WHEREAS, healthy eating in childhood and adolescence is important for proper growth and development and can prevent health problems such as obesity, dental cavities, iron deficiency, and osteoporosis; and

WHEREAS, educating Illinoisans about health and nutrition is an important part of establishing healthy habits; and

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WHEREAS, it is important for the people in Illinois communities to be aware of the existence of community nutrition programs; and

WHEREAS, community nutrition programs are important to the health and wellness of all they serve; and

WHEREAS, March is a time of national recognition and awareness related to improving nutrition habits and knowledge; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2014 as **NATIONAL NUTRITION MONTH** in Illinois, and encourage all citizens to take an interest in their nutrition and the nutrition of others in the hope of achieving optimum health for both today and tomorrow.

Issued by the Governor February 5, 2014

Filed by the Secretary of State February 24, 2014

2014-62**Registered Dietitian Day**

WHEREAS, Registered Dietitians are food and nutrition experts who can translate the science of nutrition into practical solutions for healthy living; and,

WHEREAS, Registered Dietitians have received degrees in nutrition, dietetics, public health or a related field from well-respected, accredited colleges and universities, completed an internship and passed an examination; and,

WHEREAS, Registered Dietitians use their nutrition expertise to help individuals make unique, positive lifestyle changes; and,

WHEREAS, Registered Dietitians work throughout the community in hospitals, schools, public health clinics, nursing homes, fitness centers, food management, food industry, universities, research and private practice; and,

WHEREAS, Registered Dietitians are advocates for advancing the nutritional status of Americans and people around the world:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 14, 2014 as **REGISTERED DIETITIAN DAY** in Illinois, and encourage all citizens to recognize

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the contributions of Registered Dietitians and express appreciation for their commitment to promoting science-based nutrition in the hope of achieving optimum health for both today and tomorrow.

Issued by the Governor February 5, 2014

Filed by the Secretary of State February 24, 2014

2014-63
AMBUCS Appreciation Month

WHEREAS, AMBUCS is a National Organization comprised of local civic clubs located throughout the United States dedicated to creating mobility and independence for people with disabilities, by performing community service, providing AmTryke therapeutic tricycles for individuals with disabilities and providing scholarships for therapists; and,

WHEREAS, there are thirteen AMBUCS Chapters located in the great State of Illinois and devoted to the Mission of National AMBUCS, namely: Cornbelt Bloomington AMBUCS; Champaign-Urbana AMBUCS; Danville AMBUCS; Decatur AMBUCS; Lincolnland Decatur AMBUCS; Jacksonville AMBUCS; Ottawa Ambucks; Pekin AMBUCS; Rockford AMBUCS; Rock River AMBUCS; Springfield AMBUCS; Sullivan AMBUCS; and Greater Champaign County AMBUCS; and,

WHEREAS, the number of AMBUCS actively involved in their local and National AMBUCS Chapters in the great State of Illinois totals 609, with the largest AMBUCS Chapter in the entire National AMBUCS network being the Springfield AMBUCS Chapter, with 205 members and friends; and,

WHEREAS, AMBUCS Chapters and Ambuc individuals throughout the great State of Illinois annually and freely contribute thousands of hours of community service and hundreds of thousands of dollars of monetary gifts to providing AmTrykes to disabled individuals, endowing scholarships for therapy students, building ramps for disabled persons, and countless other deserving local and national projects; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 2014 as **AMBUCS APPRECIATION MONTH** in Illinois, in recognition of the fine accomplishments, unequalled charitable giving, and selfless contributions of the individual Ambucs and AMBUCS Chapters throughout the Land of Lincoln.

Issued by the Governor February 6, 2014

Filed by the Secretary of State February 24, 2014

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2014-64**Lyme Disease Awareness Month**

WHEREAS, the bacteria *Borrelia burgdorferi* is carried by ticks and causes Lyme Borreliosis, commonly known as Lyme Disease, which is one of the most rapidly growing infectious diseases in the United States; and,

WHEREAS, the number of reported cases of Lyme Disease among residents of Illinois have steadily increased; and,

WHEREAS, despite its growing impact on Illinois residents, the Centers for Disease Control estimates that the majority of cases are misdiagnosed; and,

WHEREAS, Lyme Disease imitates other conditions and no reliable laboratory test currently exists which can confirm the diagnosis, leading it to be frequently misdiagnosed as other diseases; and,

WHEREAS, early indicators of infection include flu-like symptoms which, if left untreated, can develop into serious, permanent and sometimes life-threatening damage to the brain, joints, heart, eyes, liver, spleen, blood vessels and kidneys. For this reason it is imperative that all who develop Lyme Disease receive immediate treatment; and,

WHEREAS, educating people about the severity of the illness and the need to practice prevention techniques when engaging in outdoor activities, such as regular tick checks, use of tick repellents and proper tick removal is the best method of reducing the threat of Lyme Disease; and,

WHEREAS, during the month of May, the Illinois Lyme Disease Network, which serves Lyme survivors and their families, will be sponsoring educational seminars to inform our citizens about Lyme Borreliosis; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2014 as **LYME DISEASE AWARENESS MONTH** in Illinois, in order to draw attention to this disease and the importance of early diagnosis and treatment.

Issued by the Governor February 6, 2014

Filed by the Secretary of State February 24, 2014

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2014-65**Order Sons of Italy/Alzheimer's Association "Partners in Progress" Day**

WHEREAS, the Order Sons of Italy in America (OSIA) was established in the Little Italy neighborhood of New York City on June 22, 1905, by Vincenzo Sellaro, M.D., and five other Italian immigrants who came to the United States during the great Italian migration (1880-1923); and,

WHEREAS, OSIA's goal was to create a support system for all Italian immigrants that could assist them in becoming U.S. citizens and provide health/death benefits and educational opportunities; and,

WHEREAS, over the years, OSIA has achieved its goal of serving the public. Not only has this organization established free schools and centers to teach immigrants English and to help them become citizens, it has also instituted orphanages and homes for the elderly, and helped to raise money for those in need; and,

WHEREAS, to date, OSIA members have given millions to educational programs, disaster relief, cultural preservation and promotion and medical research; and,

WHEREAS, the National Council of the Order Sons of Italy in America has adopted Alzheimer's disease as one of its primary charities, and plans to support this cause by implementing a fund raising campaign throughout the nation; and,

WHEREAS, joining their cause will be the Alzheimer's Association, a group that provides services and support to Alzheimer's patients and their families; and,

WHEREAS, on May 17, 2014, OSIA and the Alzheimer's Association will hold an event to support the over 5 million Americans affected by Alzheimer's disease; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 17, 2014 as **ORDER SONS OF ITALY/ALZHEIMER'S ASSOCIATION "PARTNERS IN PROGRESS" DAY** in Illinois, and encourage all citizens to recognize and aid in the charitable work these organizations carry out for the benefit of others.

Issued by the Governor February 6, 2014

Filed by the Secretary of State February 24, 2014

2014-66**Child Abuse Prevention Month**

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WHEREAS, children are the embodiment of innocence and hope for the future, and every child deserves to grow up in a nurturing environment, free from harm and fear; and,

WHEREAS, every child is entitled to be loved, cared for, secure, and protected from verbal, sexual, emotional and physical abuse, exploitation, and neglect; and

WHEREAS, child abuse and neglect causes serious harm to child development and has lifelong effects that reduce well-being and productivity and create greater demands on society; and,

WHEREAS, child abuse and neglect can be reduced by making sure every family is safe, secure, and has the support needed to raise their children in a healthy environment; and,

WHEREAS, by providing our children a safe and nurturing environment, free of domestic violence, abuse, and neglect, we can ensure that children grow to their full potential as leaders, helping to secure the future of this great state and nation; and,

WHEREAS, effective child abuse prevention programs succeed because of strong partnerships created among families, social service agencies, schools, faith communities, civic organizations, law enforcement agencies, government entities and the business community; and,

WHEREAS, 1.3 million Illinois families GIVE to charity each year, with an estimated \$780 million directed to human services organizations that promote safe, loving homes and brighter futures for kids supported by strong families and communities; and,

WHEREAS, more than one million Illinoisans VOLUNTEER their time each year as tutors, mentors and coaches for youth, supporting families in raising their children in a nurturing, safe environment; and,

WHEREAS, Illinoisans ACT by making over 250,000 calls to the Illinois Child Abuse Hotline each year, by offering a temporary safe haven for more than 14,000 children as foster families, and by providing permanent, loving homes for more than 17,000 children through adoption over the last decade; and,

WHEREAS, thanks to those who fulfill their social responsibility to report suspected abuse or neglect to the Illinois Child Abuse Hotline at (800) 25-ABUSE, **the Illinois Department of Children and Family Services receives, investigates and acts on a report of child abuse or neglect every five minutes, child sexual abuse every two hours, and a child death by abuse or neglect every 36 hours;** and,

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THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 2014 as **CHILD ABUSE PREVENTION MONTH** in Illinois, and I encourage all Illinoisans to join their neighbors who GIVE, VOLUNTEER and ACT every day to prevent child abuse and ensure safe, loving homes and brighter futures for all children, ultimately strengthening families and the communities across the state in which we live.

Issued by the Governor February 10, 2014

Filed by the Secretary of State February 24, 2014

2014-67

National Black Nurses Day

WHEREAS, the depth and extensiveness of the nursing profession meets the diverse and emerging health care needs of the American population in a wide range of settings; and,

WHEREAS, professional nursing is an indispensable component in the safety and quality care of hospitalized patients; and,

WHEREAS, currently, there is a nursing shortage in the State of Illinois, as well as across the United States, and THEREFORE it is important that we work to encourage people to take up this noble line of work; and,

WHEREAS, doctors are serving more patients than ever before because of the decrease of practicing physicians, and nurses provide the necessary support needed to keep their offices functioning and running smoothly; and,

WHEREAS, in 1988, Congress declared the first Friday of February as National Black Nurses Day to acknowledge all African-American nurses for their contributions to healthcare; and,

WHEREAS, this year, the City of Chicago's four African-American nursing associations: the Chicago Chapter of the National Black Nurses' Association, Beta Mu Chapter of Lambda Pi Alpha Sorority, Alpha Eta Chapter of Chi Eta Phi Nursing Sorority, and Provident Hospital Nurses' Alumni Association are joining hands to celebrate this day, which falls on February 28th; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 28, 2014 as **NATIONAL BLACK NURSES DAY** in Illinois, to promote the nursing profession and recognize all of African-American nurses for their commitment and dedication to the medical profession and to the well-being of their patients.

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Issued by the Governor February 10, 2014
Filed by the Secretary of State February 24, 2014

2014-68
Arthritis Awareness Month

WHEREAS, Arthritis encompasses more than 100 diseases and conditions that affect the joints, tissues surrounding the joints and other organs; and,

WHEREAS, the most common forms of arthritis include osteoarthritis, rheumatoid arthritis, fibromyalgia, gout, psoriatic arthritis and lupus; and,

WHEREAS, over 50 million American adults, including over 2.3 million in Illinois, live with the pain and limitations of some form of the disease; and,

WHEREAS, nearly 300,000 American children, including 13,100 in Illinois, live with arthritis; and,

WHEREAS, early diagnosis and appropriate management can help people with arthritis decrease pain, improve function, stay productive and lower health care costs; and,

WHEREAS, the Arthritis Foundation's Walk to Cure Arthritis will be held in cities across the country to help fight and cure the nation's leading cause of disability and a principal driver of healthcare costs; and,

WHEREAS, Arthritis Awareness Month is an opportunity to increase awareness of the disease and recognize the importance of seeking appropriate treatment to minimize its disabling impact on daily lives; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2014 as **ARTHRITIS AWARENESS MONTH** in Illinois.

Issued by the Governor February 12, 2014
Filed by the Secretary of State February 24, 2014

2014-69
Fabry Disease Awareness Month

WHEREAS, Fabry disease is a rare, progressive, destructive, and life-threatening inherited genetic disorder that causes children and adults to suffer a cascade of life-altering symptoms

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such as pain, inability to perspire, intolerance to heat and exercise, unexplained fevers, chronic gastrointestinal upset, chronic fatigue, anxiety, depression, and excessive school and work absences. It progresses to include hearing loss, lung disease, heart disease, kidney disease, cerebrovascular disease, and other symptoms. It often causes premature death in adults due to heart attacks, strokes and kidney failure; and,

WHEREAS, Fabry disease is caused by deficient activity of the lysosomal enzyme alpha-galactosidase A that causes insufficient breakdown of lipids. Lipids build up to harmful levels in the body causing lysosomal and cellular dysfunction; and,

WHEREAS, there is an approved treatment for Fabry disease that must reach people who know they have Fabry disease as well as thousands of people who have not yet been recognized and diagnosed. Fabry disease is severely under-recognized and misdiagnosed. When diagnosed, it is often too late after irreversible organ damage occurs. Increased physician and family education are critical to increase disease recognition; and,

WHEREAS, the most common estimate of classic Fabry disease incidence is about 1 in 50,000 males. Because of its x-chromosome inheritance pattern, twice as many females are potentially affected but with a random, more varied distribution of disease symptoms than classic males. Further, recent newborn screening studies in other countries and pilot programs in the U.S. suggest there are many times more people with Fabry disease than current incidence rates of classic disease indicate; and,

WHEREAS, an enzyme assay test for males and molecular DNA test for females can confirm Fabry disease. Together, we can raise awareness to fight this tragic but treatable disorder; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April, 2014, as **FABRY DISEASE AWARENESS MONTH** in Illinois and urge the citizens of this state to learn about Fabry disease and assess their family risk.

Issued by the Governor February 13, 2014

Filed by the Secretary of State February 24, 2014

2014-70
Loyalty Day

WHEREAS, this nation is kept strong and free by citizens who preserve our precious American heritage through their positive patriotic declarations and actions; and,

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WHEREAS, today is a day to commemorate and confirm the values upon which our nation was conceived; and,

WHEREAS, the men and women serving in our military have sacrificed so that liberty can become a reality for the citizens of other nations; and,

WHEREAS, created by the United States Congress on July 18, 1958 through Public Law 85-529, and proclaimed by President Dwight D. Eisenhower on May 1, 1959, Loyalty Day is a legal holiday set aside for the reaffirmation of loyalty to the United States and recognition of the heritage of American Freedom; and,

WHEREAS, marking the 39th anniversary of the Vietnam War, this year's Loyalty Day is especially significant; and,

WHEREAS as a Nation of immigrants, we are united in the shared ideals of equality, liberty and honor, ideals for which our Armed Forces have defended and shed blood to protect; and,

WHEREAS, every individual, school, church, organization, business establishment and household within the State of Illinois are invited to participate in pledging allegiance to our Flag, Country, and the men and women in uniform, through active participation in patriotic programs being sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary on May 1, 2014; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 1, 2014 as **LOYALTY DAY** in Illinois, and encourage all citizens to join in this worthy observance.

Issued by the Governor February 13, 2014

Filed by the Secretary of State February 24, 2014

2014-71**Chiari Malformation Awareness Month**

WHEREAS, Chiari Malformation is a serious neurological disorder affecting well over 300,000 people in the United States; and,

WHEREAS, Chiari malformations (CMs) are defects in the cerebellum, the part of the brain that controls balance. They create pressure on the cerebellum and brainstem, which may block the flow of cerebrospinal fluid to and from the brain; and,

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WHEREAS, this condition was first identified by Austrian pathologist Professor Hans Chiari in the 1890's. Professor Chiari categorized the malformations in order of severity: types I, II, III, and IV; and,

WHEREAS, the cause of Chiari I malformations are unknown, but scientists believe it is either a congenital condition caused by exposure to harmful substances during fetal development, or a genetic condition, since it sometimes appears in more than one member of a family; and,

WHEREAS, symptoms usually appear during adolescence or early adulthood and can include severe head and neck pain, vertigo, muscle weakness, balance problems, blurred or double vision, difficulty swallowing and sleep apnea; and,

WHEREAS, the National Institute of Neurological Disorders and Stroke of the National Institutes of Health are conducting research to find alternative surgical options and identify the cause of CMs in order to create improved treatment and prevention plans; and,

WHEREAS, on September 20, Hoffman Estates will hold a walk during the annual Conquer Chiari Walk Across America; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2014 as **CHIARI MALFORMATION AWARENESS MONTH** in Illinois, to raise awareness of this devastating neurological disorder, and in support of the organizations working to improve the quality of life for those afflicted.

Issued by the Governor February 14, 2014

Filed by the Secretary of State February 24, 2014

2014-72**Huntington's Disease Awareness Week**

WHEREAS, Huntington's disease is a progressive degenerative neurological disease that causes total physical and mental deterioration over a 12-15 year period; and,

WHEREAS, currently, Huntington's disease affects approximately 30,000 patients and there are more than 250,000 genetically "at risk" individuals in the United States; and,

WHEREAS, in the State of Illinois, there are over 1,500 families that suffer every day from Huntington's Disease; and,

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WHEREAS, since the discovery of the gene that causes Huntington's disease in 1939, the pace of research has accelerated; and,

WHEREAS, although no effective treatment or cure currently exists, scientists and researchers are hopeful that breakthroughs will be forthcoming; and,

WHEREAS, researchers are conducting important research projects involving Huntington's disease; and,

WHEREAS, the Huntington's Disease Society of America (HDSA) dedicates its tireless efforts to advocating for families, educating the public, and providing support and services to affected families living with this disease; and,

WHEREAS, on May 18, 2014 the Illinois Chapter of HDSA will hold its 10th Annual TEAM HOPE - Walk For A Cure to raise funds for research into a cure or treatment for Huntington's disease; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 18-25, 2014 as **HUNTINGTON'S DISEASE AWARENESS WEEK** in Illinois, to raise awareness of this devastating disease and in support of the efforts of the Illinois Chapter of the Huntington's disease Society of America.

Issued by the Governor February 14, 2014

Filed by the Secretary of State February 24, 2014

2014-73**International Mother Language Day**

WHEREAS, there are over 6,000 languages estimated to be spoken in today's world. About half of these languages are under threat of disappearing forever; and,

WHEREAS, the existence of different languages in a culture allows us to gain a different perspective of its history and illuminates the outstanding ability of any culture to create communication; and,

WHEREAS, in order to recognize Bangladeshi students who made sacrifices to restore their mother language as their state language, International Mother Language Day, which is celebrated on February 21 every year, was launched at the thirtieth session of the General Conference of UNESCO in 1999; and,

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WHEREAS, International Mother Language Day aims to promote linguistic diversity and multilingual education, as well as increase awareness of linguistic cultural traditions based on understanding, tolerance and dialogue; and,

WHEREAS, in the constitution of Bangladesh, adopted in 1972, it is stated, "The Language of the Republic would be Bengali." In Bangladesh, efforts continue to be made to establish Bengali, the language in which famous poets Rabindranath Tagore and Nazrul Islam wrote, into all walks of life; and,

WHEREAS, the Bangladesh Association of Greater Chicagoland (BAGC) has been a leading force in educating its community and will sponsor a celebration marking the anniversary of International Mother Language Day on February 21, 2014; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 21, 2014 as **INTERNATIONAL MOTHER LANGUAGE DAY** in Illinois, and encourage all citizens to recognize the value that languages have in understanding our shared cultural history.

Issued by the Governor February 14, 2014

Filed by the Secretary of State February 24, 2014

2014-74**M.S. Awareness Month**

WHEREAS, Multiple Sclerosis (MS) is an unpredictable, often disabling, disease of the central nervous system that disrupts the flow of information between an individual's body and brain; and,

WHEREAS, MS affects an estimated 2.5 million people worldwide and 20,000 in Illinois; and,

WHEREAS, MS is the most common neurological disease leading to disability in young adults, often first diagnosed in individuals between the ages of 20-50; and,

WHEREAS, the National MS Society is an organization dedicated to funding cutting-edge research, advocating on behalf of people with the disease, and facilitating programs and services that help those with MS and their families; and,

WHEREAS, in March 2014, the National MS Society will sponsor MS Awareness Month across Metropolitan Chicago and throughout Illinois; and,

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WHEREAS, Illinois buildings will join in the observance of MS Awareness Month by lighting their rooftops or marquees orange to support the movement to end MS; and,

THEREFORE, I, Pat Quinn, Governor of the State Of Illinois, do hereby proclaim March 2014 as **MS AWARENESS MONTH** in Illinois, and encourage all Illinoisans to recognize the important efforts of the National Multiple Sclerosis Society to diagnose, treat, and manage the disease.

Issued by the Governor February 14, 2014

Filed by the Secretary of State February 24, 2014

2014-75**Illinois Flag Display Act Michael Holmes**

WHEREAS, citizens owe a tremendous debt of gratitude to the men and women of the Illinois Department of Transportation who selflessly work to aid drivers and keep our roadways safe; and,

WHEREAS, every day these men and women face risks and often put their safety on the line to perform their duties; and,

WHEREAS, on February 14, 2014, Illinois Department of Transportation snow plow driver Michael Holmes was tragically taken from us at the age of 49 in a two vehicle accident that occurred on IL Route 17; and,

WHEREAS, Michael Holmes of Wyoming, Illinois, was a monthly snowbird worker for the Illinois Department of Transportation and had been with the Department's winter operations team since 2007; and,

WHEREAS, Michael Holmes was a respected Illinois Department of Transportation employee, and a loving husband, father, grandfather, son and brother who will always be remembered for the countless lives that he touched; and,

WHEREAS, throughout his career, Michael Holmes represented the Illinois Department of Transportation admirably; and,

WHEREAS, a funeral service will be held on Friday, February 21, 2014, for Michael Holmes, who is survived by his wife, two daughters, his mom, and a sister and grandson, as well as many other loving relatives and friends; and,

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THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Wednesday, February 19, 2014, until sunset on Friday, February 21, 2014, in honor and remembrance of Michael Holmes, whose selfless service, hard work and sacrifice is an inspiration.

Issued by the Governor February 18, 2014

Filed by the Secretary of State February 24, 2014

2014-76**National Foreign Language Week**

WHEREAS, Illinois' greatest strength is its diversity of people and, as home to a thriving multicultural population, it is important for today's students to have opportunities to become bilingual or multilingual; and,

WHEREAS, the observance of National Foreign Language Week highlights the benefits of foreign language programs and encourages all American youth to broaden their horizons and scope of worldly knowledge by learning a second language so they can better understand and communicate with people of other nationalities and nations; and,

WHEREAS, more than ever, the individuals who make up our workforce need stronger language skills in order to interact with the rest of the world in commerce, diplomacy, science and cultural exchanges, and since the State of Illinois has an ever expanding role in the global marketplace, the business community needs employees who are proficient in languages other than English; and,

WHEREAS, learning one or more languages, in addition to English, is a core part of a strong educational program that helps prepare students for living in a multicultural, multi-lingual world, and reinforces learning in other subject areas; and,

WHEREAS, beginning language study early provides the best opportunities for students to achieve meaningful proficiency and success in learning another language; and,

WHEREAS, the foreign language classroom is the venue where language and culture are intertwined and students gain new levels of appreciation and awareness of the worldwide community, enabling them to communicate and build successful relationships with people from other cultures and countries; and,

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WHEREAS, the State of Illinois is proud to join teachers of foreign languages and students who embark on this great global adventure, and furthermore acknowledge those who promote school language programs so that today's youth can increase their future potential through the ability to speak, understand, read and write in other languages; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 3-9, 2014 as **NATIONAL FOREIGN LANGUAGE WEEK** in Illinois.

Issued by the Governor February 18, 2014

Filed by the Secretary of State February 24, 2014

2014-77**School Social Work Week**

WHEREAS, school social workers in the State of Illinois and across the nation serve as vital members of the educational team, playing a central role in creating a positive school climate and vital partnerships between the home, school, and community to ensure student academic success; and,

WHEREAS, school social workers are especially skilled in providing services to students who face serious challenges to school success, including poverty, disability, discrimination, abuse, addiction, bullying, divorce of parents, loss of a loved one, and other barriers to learning; and,

WHEREAS, there is a growing need for local school districts and other educational agencies to address students' emotional, physical, and environmental needs so that they can achieve academic success; and,

WHEREAS, the celebration of "School Social Work Week" during the week of March 2-8, 2014 highlights the vital role school social workers play in the lives of students and families in the United States; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2-8, 2014 as **SCHOOL SOCIAL WORK WEEK** in Illinois, in recognition of the contributions that social workers make to the lives of students across the State of Illinois.

Issued by the Governor February 18, 2014

Filed by the Secretary of State February 24, 2014

2014-78

PROCLAMATIONS

Mobility Awareness Month

WHEREAS, the people of Illinois will celebrate Mobility Awareness Month in May 2014; and,

WHEREAS, in the United States, 19 percent of the non-institutionalized civilian population aged five and older have some level of disability, representing 54 million people in the nation, with nearly 1.3 million of those citizens residing in Illinois, comprising 10.3 percent of the state's population; and,

WHEREAS, Illinois has a long history of protecting the rights and liberties of persons with disabilities, going back 32 years to the passage of the Illinois Human Rights Act (December 6, 1979); and,

WHEREAS, the State of Illinois and its agencies remain committed to continuing efforts to ensure that people with disabilities are able to fully participate in employment, transportation, education, communication, and community opportunities; and,

WHEREAS, the National Mobility Equipment Dealers Association, comprised of more than 600 mobility equipment dealers, manufacturers and driver rehabilitation specialists, sponsors Mobility Awareness Month and remains dedicated to expanding opportunities for people with Disabilities; and,

WHEREAS, the observance of National Mobility Awareness Month is designed to promote awareness for increasing independence and the quality of life for people with disabilities; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2014 as **MOBILITY AWARENESS MONTH** in Illinois, and encourage all citizens to reaffirm the principles of equality and inclusion, and do their part to ensure that people with disabilities enjoy access to active, mobile lifestyles.

Issued by the Governor February 19, 2014

Filed by the Secretary of State February 24, 2014

2014-79**National Day of Prayer**

WHEREAS, in times of peril both at home and abroad, many American citizens turn to prayer for help and guidance; and,

PROCLAMATIONS

WHEREAS, millions of men and women across the nation gratefully continue the tradition of prayer in churches, synagogues, temples, mosques, and other houses of worship across our country; and,

WHEREAS, established in 1952 by an act of Congress, the National Day of Prayer is now observed nationally every year on the first Thursday in May; and,

WHEREAS, the National Day of Prayer is a celebration of American citizens' freedom of religion, set forth in the First Amendment. Americans treasure their religious freedom, which embraces the many diverse communities of faith that have infused our society and our cultural heritage over more than two centuries; and,

WHEREAS, in past years, U.S. presidents and governors have signed proclamations designating a National Day of Prayer; and,

WHEREAS, the State of Illinois is pleased to join governors across the nation and President Barack Obama by issuing a proclamation honoring the National Day of Prayer, while continuing to work with communities of faith to improve our state; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 1, 2014 as **NATIONAL DAY OF PRAYER** in Illinois.

Issued by the Governor February 19, 2014

Filed by the Secretary of State February 24, 2014

2014-80**Nelson Mandela Day of Service**

WHEREAS, Nelson Mandela devoted his life to the advancement of civil rights, ending apartheid in South Africa, and public service. He believed in the ideal of a democratic and free society, and challenged all citizens to help build a more perfect union and live up to the purpose and potential of South Africa; and,

WHEREAS, born into the Madiba clan in Mvezo, Transkei, Nelson Mandela became actively involved in the anti-apartheid movement in his 20s and joined the African National Congress in 1942; and,

WHEREAS, for 20 years, Nelson Mandela coordinated a campaign of non-violent resistance against the South African government and its discriminatory policies; and,

PROCLAMATIONS

WHEREAS, those who were drawn to the anti-apartheid cause were inspired by Nelson Mandela's extraordinary example of making sacrifices for the greater good; and,

WHEREAS, after being released from prison, Nelson Mandela continued his activism and was elected as South Africa's first black president on May 10, 1994, at the age of 77; and,

WHEREAS, International Nelson Mandela Day of Service, which is taking place on July 18th, President Mandela's birthday, is an opportune time for the people of Illinois to recognize the life and work of Nelson Mandela and a day for everyone to serve others; and,

WHEREAS, thousands of volunteers in cities and towns across the world will be participating in community service projects during this year's International Nelson Mandela Day of Service; and,

WHEREAS, this day focuses on bringing people together and breaking down the barriers that have divided the people of South Africa; and,

WHEREAS, here in Illinois, we seek to share and celebrate the legacy of Nelson Mandela, a heroic figure whose tenacity and commitment to making the world a better place must never be forgotten; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 18, 2014 as **NELSON MANDELA DAY OF SERVICE** in Illinois, and urge citizens throughout Illinois to recognize former President Nelson Mandela and put his teachings into action by finding ways to give back to their communities on this day and throughout the year.

Issued by the Governor February 19, 2014

Filed by the Secretary of State February 24, 2014

2014-81
Pollinator Week

WHEREAS, pollinator species such as birds and insects are essential partners of farmers and ranchers in producing much of our food supply; and,

WHEREAS, pollination plays a vital role in the health of our national forests and grasslands, which provide forage, fish and wildlife, timber, water, mineral resources, and recreational opportunities as well as enhanced economic development opportunities for communities; and,

WHEREAS, pollinator species provide significant environmental benefits that are necessary for maintaining healthy, biodiverse ecosystems; and,

PROCLAMATIONS

WHEREAS, the State of Illinois has managed wildlife habitats and public lands such as Illinois forests and grasslands for decades; and,

WHEREAS, the State of Illinois provides producers with conservation assistance to promote wise conservation stewardship, including the protection and maintenance of pollinators and their habitats on working lands and wildlands; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 16-22, 2014 as **POLLINATOR WEEK** in Illinois, and I urge all citizens to recognize this observance.

Issued by the Governor February 19, 2014

Filed by the Secretary of State February 24, 2014

ILLINOIS ADMINISTRATIVE CODE

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