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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.].

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Editor's Note: The Regulatory Agenda submission period will end July 1, 2008. The Division is no longer accepting Regulatory Agendas. The second filing period for submitting will start October 14, 2008 with the last day to file on January 2, 2009.
NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part**: Riverboat Gambling

2) **Code Citation**: 86 Ill. Adm. Code 3000

3) **Section Number**: 3000.600  
   **Proposed Action**: Amendment

4) **Statutory Authority**: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3) and (13) of this Act [230 ILCS 10/5 (c) (2), (3), and (13)]

5) **A Complete Description of the Subjects and Issues Involved**: The proposed rulemaking amends Section 3000.600 by authorizing wagers made with electronic credits downloaded from an owner licensee's computer management system. Currently, Section 3000.600 requires electronic credits to be acquired through the insertion of a voucher issued by an electronic gaming device. The downloading of electronic credits is a technology widely used in the gaming industry, but not currently allowed under Illinois law.

6) **Published studies and reports, and underlying sources of 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

   **Section Number**: 3000.1050  
   **Proposed Action**: Amendment
   **Illinois Register Citation**: 32 Ill. Reg. 3136; March 7, 2008

11) **Statement of Statewide Policy Objectives**: This rulemaking does not create or expand a State mandate under 30 ILCS 805.

12) **Time, place and manner in which interested persons may comment on this proposed rulemaking**: Any interested person may submit comments in writing concerning this
ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

proposed rulemaking not later than 45 days after publication of this Notice in the Illinois Register to:

Michael Fries
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Phone 312/814-4700
Fax No. 312/814-4143
mfries@revenue.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking will require a revision of the Illinois Gaming Board's Minimum Internal Control Standards (MICS) to incorporate new provisions relating to the downloading of electronic credits. No additional personnel or expenditures will be required for this revision.

C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking has not been summarized in a regulatory agenda.

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

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

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RIVERBOAT GAMBLING

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ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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ILLINOIS GAMING BOARD

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ILLINOIS GAMING BOARD

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ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

ILLINOIS REGISTER 9784

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT


SUBPART F: CONDUCT OF GAMING

Section 3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards

a) Except as provided in subsections (b) and (c) of this Section, Riverboat Gaming Wagers may be made only with Electronic Credits, Tokens or Chips. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. Such Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device.

b) Riverboat Gaming Wagers may be made with Electronic Credits downloaded from an owner licensee's computer management system or acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license, as set forth in the Owner licensee's Internal Control System.

1) Prior to the Redemption Period, such Vouchers may, at the patron's option, be:

A) used to obtain electronic credits to place a wager in Electronic Gaming Devices registered with the Board;

B) withdrawn only in the form of Tokens or Vouchers from the Electronic Gaming Device; or

C) redeemed only for United States currency at a Voucher Validation Terminal or at the cage of a holder of an Owner's license.

2) At any time prior to the Expiration Date, Vouchers may be redeemed for United States currency at the cage of a holder of an Owner's license.
ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

c) Riverboat Gaming Wagers may be made with match play coupons issued by the holder of an Owner's license and approved by the Administrator. Such match play coupons may only be used in conjunction with the Wager of a Chip as set forth in the owner licensee's Internal Control System.

(Source: Amended at 32 Ill. Reg. _______, effective ____________)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part**: Medical Payment

2) **Code Citation**: 89 Ill. Adm. Code 140

3) **Section Number**: 140.80

   **Proposed Action**: Amendment

4) **Statutory Authority**: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Complete Description of the Subjects and Issues Involved**: This proposed amendment pertains to the Department's hospital provider assessment provisions at Section 140.80. Changes are being made concerning the Hospital Provider Fund pursuant to enrolled Senate Bill 2857, to establish a new annual assessment on hospital providers for State fiscal years 2009 through 2013, in an amount equal to $218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days. These changes are expected to annually generate approximately $900 million in assessment revenue for the Hospital Provider Fund during fiscal years 2009 through 2013.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking**: None

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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

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

Tamara Tanzillo Hoffman  
Chief of Staff  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3rd Floor  
Springfield IL  62763-0002  
217/557-7157

The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not-for-profit corporations affected:** None

   B) **Reporting, bookkeeping or other procedures required for compliance:** None

   C) **Types of professional skills necessary for compliance:** None

14) **Regulatory Agenda on Which this Rulemaking Was Summarized:** July 2008
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 10480:
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Numbers: Proposed Action:
   148.117 Amendment
   148.122 Amendment
   148.126 Amendment
   148.295 Amendment
   148.300 Amendment
   148.402 Repeal
   148.404 Repeal
   148.406 Repeal
   148.408 Repeal
   148.410 Repeal
   148.412 Repeal
   148.414 Repeal
   148.416 Repeal
   148.418 Repeal
   148.420 Repeal
   148.422 Repeal
   147.424 Repeal
   147.426 Repeal
   147.428 Repeal
   147.430 Repeal
   147.432 Repeal
   148.434 Repeal

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: The Department proposes implementation of hospital rate changes. The proposed rulemaking also includes upper payment limits that are required by federal CMMS. Further, the amendments provide increases and decreases to SNAP payments for a net reduction of $16.1 million, as well as increases in CHAP payments for $380,000 and an increase in OAAP of $19 million, resulting in a total increase of $3.3 million.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

    Tamara Tanzillo Hoffman
    Chief of Staff
    Illinois Department of Healthcare and Family Services
    201 South Grand Avenue E., 3rd Floor
    Springfield IL  62763-0002
    217/557-7157

    The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

    These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

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

14) Regulatory Agenda on which this Rulemaking was Summarized: July 2008

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the Illinois Register on page 10517:
DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Temporary Assistance for Needy Families

2) **Code Citation:** 89 Ill. Adm. Code 112

3) **Section Numbers:**
   - 112.252 Amendment
   - 112.253 Amendment
   - 112.254 Amendment

4) **Statutory Authority:** Implementing Articles IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13]

5) **A Complete Description of the Subjects and Issues involved:** This rulemaking increases the TANF Payment Levels. As a result, customers will realize an increase in their available income as the increased Payment Levels will be used to determine their monthly grant amount.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking:** None

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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

   - **Section Number:** 112.156
   - **Proposed Action:** Amendment
   - **Illinois Register Citation:** 32 Ill. Reg. 3568; March 14, 2008

11) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State mandate.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments on page 10607 of this issue of the Illinois Register.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: General Assistance

2) **Code Citation**: 89 Ill. Adm. Code 114

3) **Section Numbers**: Proposed Action:
   - 114.351  Amendment
   - 114.352  Amendment
   - 114.353  Amendment

4) **Statutory Authority**: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13]

5) **A Complete Description of the Subjects and Issues Involved**: This rulemaking increases the General Assistance Family and Children Assistance Payment Levels. As a result, customers will realize an increase in their available income as the increased Payment Levels will be used to determine their monthly grant amount.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking**: None

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Does this rulemaking contain incorporations by reference?** No

10) **Are there any other rulemakings pending on this Part?** No

11) **Statement of Statewide Policy Objectives**: This rulemaking does not create or expand a State mandate.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking**: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

    Tracie Drew, Chief  
    Bureau of Administrative Rules and Procedures  
    Department of Human Services
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments on page 10622 of this issue of the Illinois Register.
LIQUOR CONTROL COMMISSION
NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part**: Beverage Alcohol Sellers and Servers Education and Training (BASSET) Programs

2) **Code Citation**: 77 Ill. Adm. Code 3500

3) **Section Number**: Proposed Action:
   - 3500.160 Amendment

4) **Statutory Authority**: 235 ILCS 5/3-12(a)(2) and (a)(11.1)

5) **A Complete Description of the Subjects and Issues Involved**: The proposed amendment to Section 3500.160(a) seeks to change the required Beverage Alcohol Sellers and Servers Education and Training (BASSET) minimum classroom hours for certificate seekers who serve liquor for off-premises consumption from six hours to three hours. In addition, the rule changes the required BASSET minimum classroom hours for certificate seekers who serve for on-premises consumption from six hours to four hours. Furthermore, there is no longer a need to provide for a special exception for in-house packaged liquor training programs. The provision providing that exception will be removed entirely.

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**: 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:

    Richard Haymaker
Liquor Control Commission

Notice of Proposed Amendment

Chief Legal Counsel
Illinois Liquor Control Commission
100 W. Randolph Street, Suite 7-801
Chicago, Illinois 60601
312/814-1804

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any organization that currently is certified to conduct BASSET training.

B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping

C) Types of professional skills necessary for compliance: General bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on either of the last two Regulatory Agendas because: it was unanticipated at the time.

The full text of the Proposed Amendment begins on the next page:
PART 3500
BEVERAGE ALCOHOL SELLERS AND SERVERS EDUCATION
AND TRAINING (BASSET) PROGRAMS

Section
3500.101 ProgramsSubject to Licensure
3500.105 Purpose of BASSET
3500.110 License Applications
3500.115 Renewal Applications
3500.120 License Fees
3500.125 Period of Licensure
3500.130 Acceptance for Processing
3500.135 Non-Transferability of License
3500.140 Change in BASSET Program Director or Services
3500.145 Exceptions for BASSET Programs
3500.150 Compliance With Local Government Ordinances
3500.155 BASSET Curriculum Requirements
3500.160 BASSET Programmatic Requirements
3500.165 BASSET Program Fee
3500.170 Sanctions
3500.175 Eligibility Requirements

AUTHORITY: Implementing and authorized by Section 3-12(a)(2) and (11.1) of the Liquor Control Act of 1934 [235 ILCS 5/3-12(a)(2) and (11.1)].


Section 3500.160 BASSET Programmatic Requirements

a) The BASSET program shall include a minimum of three hours of classroom instruction for off-premises servers and four hours for on-premises servers. This instruction may be offered in one entire session or scheduled in increments over a
LIQUOR CONTROL COMMISSION

NOTICE OF PROPOSED AMENDMENT

specified period of time. The program time can be adjusted to take into account new, innovative teaching methods if approved by the Commission. Any off-premises only BASSET licensee (including but not limited to: liquor, grocery or convenience store) that has an in-house training program shall include a minimum of four hours of classroom instruction, if approved by the Commission.

b) At the time of application for licensure, the program must specify how the required curriculum hours will be scheduled.

c) BASSET programs shall design and administer a pre-test and post-test to participants to assess the program's effectiveness and any increase in knowledge in the curriculum areas. The pre-test and post-test must be submitted for review by the Commission at the time of application for licensure or prior to the provision of services.

d) BASSET programs shall issue a certificate to each participant that it determines has successfully completed the course.

e) BASSET programs shall submit at the time of licensing a listing of all BASSET instructors.

f) Within ten days after the completion of an approved training course, the BASSET licensee shall submit to the Commission a roster. The roster shall include: the name, address, telephone number and date of birth of each student who successfully completed the training course and passed the required examination; the name and company of the BASSET trainer that conducted the course; the date each participant successfully completed the course; and whether the course was off-premises instruction only. The Commission will then issue BASSET cards to those participants who successfully complete the course. Replacement cards will cost $15. These cards must be carried by the person whose name appears on the card if involved in the selling and/or serving of alcoholic liquor and local ordinance mandates BASSET training. A BASSET licensee may issue a temporary card to any person who has successfully completed its course. The temporary card shall be valid pending receipt of the card issued by the Commission but for no longer than 30 days after issuance of the temporary card.

g) Within 30 days after notification by the Commission, BASSET programs shall compile and submit, on a format designed by the Commission, a semi-annual report containing the following information:
LIQUOR CONTROL COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) The number of participants trained during the reporting period.

2) The number of BASSET courses scheduled and completed during the reporting period and the location of each course.

3) The total fees charged for BASSET training per course during the reporting period.

4) The number of businesses represented by participants completing BASSET programs and the respective counties of those businesses.

h) BASSET programs shall maintain a record of all participants who successfully complete BASSET training for a minimum of one year.

(Source: Amended at 32 Ill. Reg. _____, effective ____________ )
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Retailers' Occupation Tax

2) **Code Citation:** 86 Ill. Adm. Code 130

3) **Section Number:** 130.2125  **Proposed Action:** Amendment

4) **Statutory Authority:** 20 ILCS 2505/2505-25

5) **A Complete Description of the Subjects and Issues Involved:** This proposed rulemaking amends Section 130.2125 of the Department's rules to clarify how rebates from automobile manufacturers and other incentives from automobile manufacturers are treated for sales tax purposes. Automobile manufacturer rebates are to be treated in the same manner as other rebates – taxable to the dealer if they are used as part of the consideration for the sale and not taxable if the customer keeps the rebate and does not apply it to the purchase of the automobile. Examples are provided of taxable and nontaxable transactions.

Beginning July 1, 2008, the taxation of the other automobile dealer incentives will depend upon whether the incentive is provided to the dealer solely for the sale of the vehicle or is conditioned on additional sales or other service standards or goals. Incentives provided by manufacturers that are conditioned on additional sales or are conditioned on meeting certain manufacturer required marketing standards, facility standards, or sales and service department satisfaction goals would not be subject to tax. Examples are provided of taxable and nontaxable incentives.

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?** Yes

9) **Does this rulemaking contain incorporations by reference?** No

10) **Are there any other proposed rulemakings pending on this Part?** Yes

**Section Numbers:** 130.330  **Proposed Action:** Amendment  **Illinois Register Citation:** 32 Ill. Reg. 8561; June 13, 2008
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:

   Terry D. Charlton  
   Senior Counsel, Sales & Excise Taxes  
   Illinois Department of Revenue  
   Legal Services Office  
   101 West Jefferson  
   Springfield, Illinois 62794  
   217/782-2844

13) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** Retailers of automobiles or other vehicles and purchasers of automobiles or other vehicles will be affected by this rulemaking.

   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 2008

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

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
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130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220 Sales to Lessors of Tangible Personal Property
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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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130.305 Farm Machinery and Equipment
130.310 Food, Drugs, Medicines and Medical Appliances
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
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130.331 Manufacturer's Purchase Credit
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130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled
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Devices
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130.341 Commercial Distribution Fee Sales Tax Exemption
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130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges – Penalties – Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
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SUBPART S: SPECIFIC APPLICATIONS

Section 130.2125 Trading Stamps, and Discount Coupons, Automobile Rebates and Dealer Incentives

a) Trading Stamps
Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps shall be deemed to be engaged in the business of selling such tangible personal property at retail and shall be liable for and shall pay the tax imposed by the Retailers' Occupation Tax Act on the basis of the retail value of the property transferred upon redemption of such stamps. When merchandise is paid for partly in cash and partly by surrendering a trading stamp valued at a specific amount, the total amount (including the value of surrendered trading stamp) is subject to Retailers' Occupation Tax.

b) Discount Coupons

1) Where the retailer receives no coupon reimbursement:
If a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to Retailers' Occupation Tax liability. Only the receipts actually received by the retailer from the purchaser, other than the value of the coupon, are subject to the tax. For example, if a retailer sells an item for $10 and the purchaser provides the retailer with a $1 in-store coupon for
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which the retailer receives no reimbursement from the manufacturer of the item or any other source, the retailer's gross receipts of $9 are subject to Retailer's Occupation Tax.

2) Where the retailer receives full or partial coupon reimbursement:

A) If a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer will receive full or partial reimbursement (from a manufacturer, distributor or other source), the retailer incurs Retailers' Occupation Tax liability on the receipts received from the purchaser and the amount of any coupon reimbursement. For example, if a retailer sells an item for $15 and the purchaser provides the retailer with a $5 manufacturer's coupon for which the retailer receives full reimbursement from the manufacturer of the item, the retailer's gross receipts of $15 are subject to Retailers' Occupation Tax. Technically, the coupon issuer (the manufacturer in this example) owes the corresponding Use Tax on the value of the coupon. However, in many cases, the coupon issuer incorporates language into the coupon that requires the bearer (the purchaser in this example) to assume this Use Tax liability.

B) However, payments received by the retailer (from a manufacturer, distributor or other source) for handling charges or administrative expenses in processing coupons are not subject to the tax if those payments are clearly distinguished from coupon value reimbursement. In addition, if the retailer receives a discount from a manufacturer, distributor or other source when purchasing tangible personal property for resale, and, pursuant to a contract with that manufacturer, distributor or other source, the retailer issues discount coupons applicable to the sale of such property, such coupons shall not be deemed to be reimbursed by the manufacturer, distributor or other source.

c) Gift Situations
Where a retailer, manufacturer, distributor, or other person, issues a coupon which entitles the bearer to obtain an item of tangible personal property free of any charge whatever and not conditioned on the purchase of other property, the furnishing of such tangible personal property does not constitute a sale under the
Retailers' Occupation Tax Act and the retailer does not incur Retailers' Occupation Tax liability with respect to such transfer. However, the retailer, manufacturer or distributor, or other person, issuing such a coupon, as donor, incurs Use Tax liability on his cost price of all tangible personal property actually transferred as a result of such coupon. (See Subpart C of the Use Tax Regulations.)

If a bearer (customer) presents a retailer with a coupon issued by the retailer that entitles the bearer to a free item and such coupon is not conditioned on a purchase, the retailer incurs Use Tax based upon its cost price of the item given away. However, if a bearer (customer) presents a retailer with a coupon issued by the manufacturer that entitles the bearer to a free item and such coupon is not conditioned on a purchase by the customer, the manufacturer incurs Use Tax based upon its cost price of the item given away. However, in many cases, the manufacturer incorporates language into the coupon that requires the bearer (customer) to assume this Use Tax liability.

d) Automobile Rebates

1) If an automobile dealer accepts a manufacturer's rebate provided by a customer as part of the payment for the retail sale of an automobile or other type of vehicle, the amount of the reimbursement or payment paid by the manufacturer to the dealer is part of the taxable gross receipts received by the dealer for the sale of that automobile or other type of vehicle.

2) Automobile Rebate Examples:

EXAMPLE 1 (taxable – customer applies rebate amount to purchase price): An automobile manufacturer offers a $1,000 rebate to purchasers of certain automobiles at or near the end of a model year. The dealer sells one of the qualifying vehicles to a customer for $30,000. The customer has the option of receiving the payment from the manufacturer for the rebate or assigning the rebate to the purchase price of the vehicle. The customer chooses to apply the $1,000 rebate amount to the purchase price of the vehicle. Since the dealer will receive a payment from the manufacturer of $1,000 and $29,000 from the customer, the taxable gross receipts received by the dealer for this sale are $30,000.
EXAMPLE 2 (not taxable – customer does not apply rebate amount to purchase price): An automobile manufacturer offers a $1,000 rebate to purchasers of certain automobiles at or near the end of a model year. The dealer sells one of the qualifying vehicles to a customer for $30,000. The customer has the option of receiving the payment from the manufacturer for the rebate or assigning the rebate to the purchase price of the vehicle. The customer does not choose to apply the $1,000 rebate amount to the purchase price of the vehicle and instead chooses to keep the amount of the rebate. Since the dealer will receive $30,000 from the customer and no payment from the manufacturer, the taxable gross receipts received by the dealer for this sale are $30,000.

e) Automobile Dealer Incentives

1) This subsection (e) is effective for sales made on and after July 1, 2008. The taxation of automobile dealer incentives will depend upon whether the dealer receives a payment from a source other than the purchaser that is conditioned upon the retail sale of an automobile. If an automobile dealer receives a payment as an incentive for the retail sale of an automobile, the amount of that reimbursement or payment is part of the taxable gross receipts received by the dealer for the sale of that automobile. If a dealer receives payment in exchange for the purchase of an automobile from a supplier or manufacturer, and that payment is not conditioned upon the sale of that automobile to a retail consumer, the amount of that payment is not part of the taxable gross receipts received by the dealer for the retail sale of that automobile. The determination of taxability under the provisions of this subsection (e)(1) is not dependent on whether the retailer is required to lower the selling price of the vehicle as a condition for receiving the incentive payment. Notwithstanding the provisions of this subsection (e)(1), the payment is not part of the taxable gross receipts from a retail sale if, at the time of the retail sale, the payment is contingent on the dealer making or having made any additional retail sales. In addition, a dealer incentive or bonus contingent on the dealer meeting certain manufacturer required marketing standards, facility standards, or sales and service department satisfaction goals is not part of the taxable gross receipts from a retail sale of vehicles sold by that dealer, even if the incentive or bonus is calculated using the gross receipts, Manufacturer's Suggested Retail Price (MSRP), or a flat amount per vehicle.
2) Automobile Dealer Incentive Examples:

EXAMPLE 1 (taxable incentive payments – payment conditioned on the retail sale): An automobile manufacturer offers a dealer incentive (sometimes referred to as "dealer cash") of $1,000 for each of a specific type of automobile sold to a retail customer during the month of March. An automobile dealer sells that type of a vehicle to a retail customer for $38,000 during the month of March. The retail sale of that vehicle qualifies the dealer for the manufacturer's dealer incentive payment of $1,000 for the retail sale of that vehicle. The purchaser pays the dealer $38,000 and the dealer receives $1,000 from the manufacturer. Since the $1,000 payment is conditioned only upon the sale of that vehicle and is not conditioned upon the sale of any other vehicle or vehicles, the taxable gross receipts received by the dealer for this sale are $39,000.

EXAMPLE 2 (nontaxable incentive payments – payment conditioned on the retail sale, but only after a certain number of sales have been made): An automobile manufacturer offers a dealer incentive payment (sometimes referred to as "dealer cash") of $1,000 for each of a specific type of automobile sold to a retail customer in the month of March, but only if the dealer sells at least 15 of that type of vehicle during that month. An automobile dealer sells that type of vehicle to a retail customer for $38,000 on March 25. The dealer had sold 14 of that type of vehicle earlier that month and the sale on March 25 qualified the dealer for the $1,000 manufacturer payment on that sale and each of the 14 previous sales. The gross receipts from the sale on March 25 are $38,000 and the $1,000 manufacturer's payment is not part of the dealer's gross receipts from that sale. In addition, the $14,000 payment to the dealer for the sales of the previous 14 vehicles was contingent upon the sale of other vehicles and is not part of the gross receipts from the sales of those vehicles. If the dealer sold a vehicle on March 26 and qualified for another $1,000 manufacturer payment for that sale, the $1,000 manufacturer payment would not be part of the dealer's gross receipts from that sale.

EXAMPLE 3 (non-taxable dealer hold-backs – payment not conditioned on the retail sale): A manufacturer provides dealer hold-back payments to its automobile dealers of 3% of the invoice price of each vehicle purchased from that manufacturer. The dealer hold-back payments are paid to the dealer on a quarterly basis regardless of whether that dealer has
The dealer purchases a vehicle from the manufacturer at the beginning of the month for an invoice price of $39,000 and then sells that vehicle 10 days later at retail for $40,000. The manufacturer of that vehicle pays an amount to the dealer of $1,170 (3% of the invoice price of $39,000) at the end of the quarter as a dealer hold-back for that vehicle. Since the $1,170 hold-back payment to the dealer from the manufacturer is conditioned only on the purchase of the vehicle from the manufacturer (not on the subsequent retail sale of the vehicle), the taxable gross receipts received by the dealer for this sale are only $40,000.

EXAMPLE 4 (non-taxable – payment not conditioned on the retail sale): An automobile dealer normally offers a specific type of vehicle for retail sale for $40,000. The manufacturer of that vehicle agreed to pay an incentive to the dealer of $3,000 for each of that type of vehicle that the dealer purchased for resale from the manufacturer during a specified promotional period. After purchasing the vehicle during the qualifying period, the dealer offered the vehicle for sale at a reduced or discounted price of $37,000. A retail purchaser agrees to purchase the vehicle for $37,000. Since the $3,000 incentive provided to the dealer from the manufacturer is conditioned only on the dealer's purchase of the vehicle from the manufacturer (not on the subsequent retail sale of the vehicle), the taxable gross receipts received by the dealer for this sale are $37,000.

EXAMPLE 5 (non-taxable performance bonus payments): An automobile manufacturer establishes a performance bonus program for automobile dealers who obtain a certain customer service index (CSI) score that demonstrates a substantial degree of satisfaction from their sales and service customers. Upon meeting the requirement, the automobile dealer will receive an incentive payment from the manufacturer calculated as 2% of the MSRP of the vehicles sold by that dealer during the incentive period. Because the bonus is contingent on the dealer meeting certain customer satisfaction goals as indicated by the CSI score, the manufacturer's performance bonus would not be part of the gross receipts received by that dealer for the sales of those vehicles.

EXAMPLE 6 (non-taxable marketing or facility incentive payments): An automobile manufacturer creates an incentive program for automobile dealers who meet certain marketing standards or facility standards
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designed to increase sales and brand loyalty. Upon meeting the standards, the automobile dealer will receive an incentive payment from the manufacturer calculated as a flat amount of $500 per vehicle sold by the dealer during the incentive period. Because the incentive is contingent on the dealer meeting certain marketing or facility standards set by the manufacturer, the $500 incentive payments would not be part of the gross receipts received by that dealer for the sales of those vehicles.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

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1) **Heading of the Part:** Procedures and Standards

2) **Code Citation:** 92 Ill. Adm. Code 1001

3) **Section Numbers:**
   - 1001.410 Amend
   - 1001.441 Amend
   - 1001.442 Amend
   - 1001.444 New

4) **Statutory Authority:** Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, 6-206.1, 6-208, and 6-208.1 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-206.1, 6-208, 6-208.1, and 11-501]

5) **A Complete Description of the Subjects and Issues Involved:** The purpose of this rulemaking is to implement Public Acts 95-400 and 95-578 (Senate Bills 300 and 607, respectively, both effective January 1, 2009). These bills authorize the issuance, by the circuit courts of a "Monitoring Device Driving Permit", which is a 24 hour, 7 days per week permit, to "first-time DUI offenders" upon the offender's installation of an interlock device in his/her vehicle. (Note that a clean-up bill, SB 2295, passed both houses of the General Assembly on May 22, 2008. This rulemaking anticipates that the Governor will sign this bill and, therefore, implements its provisions as well.)

Further, Section 1001.441 is amended to require all interlock providers to conduct a physical inspection of the vehicle and the interlock device as part of the monitoring process (the option of allowing the BAIID permittee to mail the appropriate piece of the device to the provider has been stricken). The Secretary of State has come to the conclusion that a physical inspection is needed to deter tampering and circumvention. Also, the amount of the monitoring fee is increased from $20 to $30, pursuant to authorization provided in SB 2295. Finally, this Section and Section 1001.442 are amended so that all sections, subsections, and paragraphs are consistent when referring to the qualification of BAIID providers and the certification of interlock devices.

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 proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: These proposed amendments 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 these proposed amendments may submit written comments no later than 45 days after the publication of this Notice to:

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

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

13) Initial Regulatory Flexibility Analysis:

   A) Types of small businesses, small municipalities and not for profit corporations affected: Manufacturers and installers of ignition interlock devices (i.e., BAIID providers, who choose to participate in the MDDP program)

   B) Reporting, bookkeeping or other procedures required for compliance: BAIID providers are required to maintain a record of whether the MDDP offender they are serving is indigent and, therefore, is not required to pay for the interlock device, and of a surcharge imposed on MDDP offenders who are not indigent and who, therefore, subsidize the indigent permittees. The provider must account for these transactions and is allowed to seek reimbursement, from a newly established Indigent BAIID Fund (funded by the surcharge paid by the MDDP offenders who are not indigent), for their costs of providing interlock services to the indigent MDDP offenders. BAIID providers must also provide or report computerized data on the MDDP offenders compliance with the terms and conditions of the
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MDDP program.

C) Types of Professional skills necessary for compliance: Automobile mechanical, computer uploading

14) Regulatory Agenda on which this rulemaking was summarized: January and July 2008

The full text of the Proposed Amendments begins on the next page:
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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

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SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS
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SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

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1001.442 BAIID Providers Qualification Certification Procedures and Responsibilities; Certification Approval of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
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1001. APPENDIX A  BAIID Regions and Minimum Installation/Service Center Site Location Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-103 and 6-101-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 6-103, 6-201, 6-906, and 6-906 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-104, 2-103, 2-113, 2-118, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].


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

Section 1001.410 Definitions

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

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

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

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

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

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

the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years, or the petitioner has an alcohol/drug-related criminal record, as defined in this Section; or

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

"Alcohol and drug evaluation (Out-of-state)" means a typewritten report which conforms to standards established by the Department as specified in Section 1001.440(a)(6)(C) of this Subpart.

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

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

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

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

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

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

"BAIID permittee " means a BAIID petitioner who has been issued an RDP as a result of a hearing.

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

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

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

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

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

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

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

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

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

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

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

"DASA" means the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse.
"Decertification" means the removal or cancellation by the Secretary of the authorization to sell, rent, distribute, supply, install, service, repair, or monitor BAIIDs for BAIID permittees and BAIID multiple offenders. The Secretary may decertify for a BAIID provider to use, distribute or provide a particular type of BAIID to BAIID permittees, MDDP offenders and BAIID multiple offenders. "Decertification" is synonymous with disqualification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

symptoms of substance dependence (regardless of driving record), referred to in this Part as High Risk Dependent; and/or

within the 10 year period prior to the date of the most current (third or
subsequent) arrest, any combination of two prior convictions or court
ordered supervisions for DUI, or prior statutory summary suspensions, or
prior reckless driving convictions reduced from DUI, resulting from
separate incidents, referred to in this Part as High Risk Nondependent.
(See 77 Ill. Adm. Code 2060.503(g).)

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

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

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

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

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

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

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

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

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

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

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

- no prior conviction or court ordered supervisions for DUI, no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

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

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

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

- no prior conviction or court ordered supervisions for DUI, and no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

- a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Monitor report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC reading, and any evidence of tampering or circumvention of the device.
"National Driver Register" means a central index, maintained by the U.S. Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Undue hardship as it relates to educational pursuits" means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It is more than mere inconvenience to the petitioner, and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

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

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

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. ______, effective ____________)


Section 1001.441  Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs

a)  BAIID Required for RDP; Fee Required

1)  The issuance of RDPs to a BAIID petitioner shall be conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID), as required by Sections 6-205, 6-206 and/or 11-501 of the IVC. As provided in these Sections, a BAIID petitioner must pay a non-refundable fee of $30 per month on an annual basis, for a total annual payment of $360. This total annual payment must be paid in advance and prior to the issuance of any permit. Payment must be submitted in the form of a money order, check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.

2)  A BAIID petitioner who is renewing restricted driving permits and who also is eligible for the full reinstatement of driving privileges less than 12 months from the date of the expiration of the current restricted driving permits at the time he/she renews the permits, shall not be required to make an annual payment. If the petitioner has been scheduled for a formal hearing on a petition for reinstatement at the time of renewal, then petitioner shall pay the above-referenced fee in an amount equal to the number of months between the date of renewal and date of the hearing, plus an additional 3 months (not to exceed 12 months), times $30. If the petitioner does not have a formal hearing on a petition for reinstatement scheduled at the time of renewal, then the fee shall be paid for 9 months. If, however, the petitioner is denied full reinstatement, then the petitioner must resume payment on an annual basis.

b)  Notification of BAIID Requirements. The Secretary shall notify any BAIID petitioner who requests a hearing of the procedures for obtaining a BAIID and the BAIID requirements. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification, or by electronic mail.

c)  Type of Hearing Required. All hearings involving a BAIID petitioner seeking driving relief shall be formal hearings. Any extension or modification of an RDP issued under this Section may be done at an informal hearing. Any hearing
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involving a BAIID petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.

d) Petitioner Must Meet Requirements of Subpart D. The Secretary shall issue an RDP to a BAIID petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of this Subpart D and installs and utilizes a device in all motor vehicles operated by the BAIID petitioner and, where applicable, all motor vehicles owned by the BAIID petitioner as required by the RDP issued under this Subpart D. BAIIDs shall not be installed on and BAIID permittees shall not operate motorcycles or motor driven cycles or commercial motor vehicles requiring a commercial driver's license.

e) Hearing Officer's Responsibilities; Petitioner's Responsibilities. Prior to the taking of evidence at the hearing:

1) The hearing officer shall make sure that the BAIID petitioner understands: all of the provisions and requirements of receiving a BAIID permit; that to obtain an RDP the BAIID petitioner must minimally meet all of the requirements of Section 1001.440 of this Subpart D and install and utilize the device; that a BAIID petitioner's agreement to install a BAIID or willingness to comply with the BAIID requirements does not guarantee issuance of an RDP; and that all costs associated with the device are the responsibility of the BAIID petitioner; and

2) The BAIID petitioner shall advise the hearing officer that he/she understands all of the provisions and conditions of the BAIID requirements and whether he/she agrees to comply with the BAIID requirements. If the BAIID petitioner is unwilling to use the device, or comply with this Section, he/she shall be advised that restricted driving permits cannot be granted.

f) Decision. After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.

1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.

2) If the hearing officer determines that an RDP should be granted, an order
granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under this Section shall require continued use of the device until the driving privileges of the petitioner are reinstated.

g) Installation of BAIID. Upon the issuance of an RDP under this Section, the Secretary shall make available a list of certified BAIID providers to the BAIID permittee. In addition to the other requirements under this Part, the BAIID Permittee may operate the vehicle for 14 days from the issuance of the RDP without the device installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the device. The installer or BAIID provider must notify the Secretary that a device has been installed in the vehicles designated by the BAIID permittee within 7 days from the date of the installation of the device. Proof of installation shall be by such means as determined by the Secretary from the installer or BAIID provider. Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.

h) Petitioner's Responsibilities – Driving with BAIID. Any BAIID petitioner receiving an RDP under this Section must comply with the following requirements:

1) Operate only vehicles with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the BAIID permittee as required by the RDP issued under this Section.

2) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer within the first 30 days for an initial monitor report to help the BAIID permittee learn how to correctly use the device, and thereafter not longer than every 60 days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the BAIID provider or installer.

3) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
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4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device. If BAIIDs have been installed on multiple vehicles pursuant to Section 1001.443, a separate journal must be kept for each vehicle, recording unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device, and recording the name of the driver operating the vehicle at the time of the event.

5) May not have an interlock device removed or deinstalled from his or her vehicle without first notifying the Secretary and surrendering to the Secretary or his designee the permittee's restricted driving permit.

i) Review of Monitor Reports; Sanctions for Failure to Comply. Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action. The failure of the BAIID permittee to comply with the requirements of this Subpart D will be made part of his/her record of performance to be considered at future formal hearings.

1) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a running retest, during the initial monitor period, send a warning letter to the BAIID permittee indicating that future unsuccessful attempts to start the vehicle or failure to successfully complete a running retest will result in the Secretary sending a letter to the BAIID permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a running retest;

2) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
3) For any BAIID permittee whose monitor reports show a failure to successfully complete a running retest, after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

4) For any BAIID permittee whose monitor reports show a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained in this Section, there shall arise a rebuttable presumption that the BAIID permittee consumed alcoholic beverages. The presumption may result in the cancellation of the RDP if the BAIID permittee is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent). In every case, the Secretary shall send a letter asking for an explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID permittee did not consume alcoholic beverages, no further action will be taken. If a response from a BAIID permittee whose alcohol/drug use was classified at High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance and the Secretary shall cancel the RDP and authorize the immediate removal/deinstallation of any BAIID. If a response from a BAIID permittee whose alcohol/drug use was classified at something other than High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

5) For any BAIID permittee who was arrested/ stopped by the police for an alcohol/drug related offense, failed a running retest, or failed to take a running retest, if the police officer's report indicates the use of alcoholic beverages and/or drugs, the Secretary shall send the BAIID permittee a letter asking for an explanation of the incident. If a response is received within 21 days after the date of the Secretary's letter and it reasonably
assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

6) For any BAIID permittee whose initial monitor or monitor reports show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device, the Secretary shall send the BAIID permittee a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, then the Secretary shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device.

j) Immediate Cancellation of BAIID Permit. Any one of the following shall also be grounds for immediate cancellation of an RDP issued under this Section:

1) Any law enforcement report showing operation of a vehicle by a BAIID permittee without a device as required by the RDP issued under this Section. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;

2) Notification from a BAIID provider or installer on a removal/deinstallation report form stating that the device installed in a BAIID permittee's vehicle has been removed and/or is no longer being utilized by the permittee, as required by subsection (d), including a removal or deinstallation caused by the BAIID permittee's failure to pay lease or rental fees due to the BAIID provider, unless the permittee has notified the Secretary that he or she is no longer utilizing the device and surrendered the BAIID permit to the Secretary as required in subsection (h). This notification shall be sent to the Secretary no more than 7 days after the removal/deinstallation;

3) Failure to submit a BAIID for monitoring in a timely manner. Unless notified by a BAIID provider pursuant to subsection (j)(2), all monitor
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reports shall be submitted to the Secretary within 67 days after the previous monitor report. If the Secretary fails to receive a BAIID permittee's monitor reports in the 67 days, then the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and permittee by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the BAIID permittee failed to take in a vehicle with the device for timely monitor reports or failed to send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, then the Secretary will send a letter to the BAIID permittee stating that if the device is not taken in for a monitor report within 10 days after the date of the letter, then any permits issued to the BAIID permittee will be cancelled;

4) Any law enforcement report involving a DUI arrest or other law enforcement report indicating use of alcohol in violation of Subpart D;

5) The Secretary reserves the discretion to cancel a BAIID permittee's driving privileges if monitor reports, which are processed after a hearing is conducted or after the reinstatement of driving privileges, show a violation of the terms and conditions of the BAIID permit.

k) Hearing to Contest Cancellation of BAIID Permit. Any BAIID permittee whose RDP is cancelled as provided for in this Section may request a hearing to contest the cancellation within 60 days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal hearing under this Part. Any BAIID permittee whose RDP is cancelled under the provisions of this Section and who is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent) and who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.

l) No Hearing for 12 Months After Cancellation. Any BAIID permittee whose RDP is cancelled for any reason as provided for in this Section shall not be granted another hearing for any type of driving relief for one year from the date of the cancellation, except to contest the cancellation as provided in subsection (k). This provision does not apply to BAIID permittees who: voluntarily have surrendered their RDPs; have not committed any offense or act that would be grounds for the cancellation of their RDPs; or are able to demonstrate that he/she was not the
perpetrator of the offense or conduct that otherwise would be grounds for the cancellation of his/her RDPs.

m) Formal Order – Content. Any formal order entered that grants the issuance of an RDP as provided for in this Section shall, in addition to all other requirements, clearly indicate the following:

1) That the RDP is issued conditioned upon BAIID installation and proper usage of the BAIID by the permittee; and

2) That the BAIID permittee is aware of all conditions and terms of BAIID installation and proper usage of the BAIID, and he or she accepts those conditions and terms as conditions precedent to the issuance of the RDP.

n) RDPs – Content. Any RDPs issued as provided for in this Section shall, in addition to all other requirements, clearly indicate:

1) That the RDP is issued pursuant to the BAIID requirements of this Section, and that a vehicle operated by a BAIID permittee must be equipped with an installed, properly operating device;

2) That the provisions of the RDP also allow the BAIID permittee to drive to and from the BAIID provider or installer for the purposes of installing the device within 14 days after the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.

o) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the permittee's performance and compliance with the BAIID requirements under this Subpart D. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.

p) Modification or Waiver of BAIID. The Secretary may make a medical or physical BAIID modification or waiver for RDPs issued under this Section.

q) Employment Exemption from BAIID Requirements. In determining whether a BAIID permittee is exempt from the BAIID requirements pursuant to the waiver provided for in Sections 6-205 and 6-206 of the IVC, the following shall apply:
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1) The term "employer" shall not include an entity owned or controlled in whole or in part by the permittee or any member of the permittee's immediate family, unless the entity is a corporation and the permittee and the permittee's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;

2) The exemption shall not apply where the employer's vehicle is assigned exclusively to the BAIID permittee and used solely for commuting to and from employment.

r) Disqualification/Decertification of BAIID Providers and BAIID Device. The Secretary must notify the BAIID permittee of the disqualification/decertification of a BAIID provider or the decertification of a particular type of BAIID. The BAIID permittee must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The BAIID permittee must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The BAIID permittee must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the BAIID permittee's RDP. All costs related to any change in BAIID provider or BAIID shall be paid by the BAIID permittee.

s) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

Section 1001.442 BAIID Providers Qualification Certification Procedures and Responsibilities; Certification Approval of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider

a) Qualification Certification Required to Provide BAIID Services. No person or entity may provide BAIID services pursuant to this Subpart D unless
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qualified as a BAIID provider by the Secretary. The Secretary shall begin accepting applications for certification immediately after August 1, 2003. All qualified BAIID providers must apply for requalification on an annual, calendar year basis, with applications for requalification due in the Secretary's office no later than December 1 of each year. Upon the certification of one or more BAIID providers under this amended Subpart D, the Secretary will cease assigning BAIID permittees to BAIID manufacturers pursuant to the geographic districts set forth in previous rules.

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

c) Information Required in Application for Qualification Certification. Persons or entities desiring to be qualified as BAIID providers may submit an application for qualification at any time after August 1, 2003. An application for qualification or requalification as a BAIID provider shall include all of the following information:

1) The name, business address and telephone number of the applicant. If the applicant is a business entity other than a corporation, the application must include the names and addresses of the owners of the entity. If the applicant is a corporation, the application must include the names and addresses of any person or entity owning 10% or more of the outstanding shares of the corporation;

2) The names, business addresses and telephone numbers, and titles of any officers, managers or supervisors of the applicant who will be involved in the provision of BAIID services;

3) A description of each BAIID the applicant proposes to install, including the name and address of the manufacturer and the model of the unit.
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Unless the BAIID has been certified by the Secretary pursuant to this Section, the application must include the information necessary to obtain certification of the BAIID pursuant to this Section;

4) If the applicant is not a BAIID manufacturer, the application must include proof of the applicant’s right to distribute and install the particular types of BAIIDs the applicant is proposing to utilize. Such proof may include a letter (composed on letterhead stationary), or a copy of a purchase, lease, rental or distribution agreement with the manufacturer;

5) A detailed description of the applicant's plan for distribution, installation and service of BAIIDs in Illinois, including the names and addresses of all installers the applicant intends to use. This plan must demonstrate the applicant's ability to distribute and install BAIIDs and submit reports to the Secretary within the time frames established by this Subpart D;

6) Proof the applicant possesses the minimum liability insurance coverage required by this Section, and a statement agreeing to the indemnification and hold harmless provisions of this Section;

7) In the event an original or amended application to be qualified or recertified as a BAIID provider is denied, the Secretary shall limit additional applications from that applicant to one every 12 months;

8) In deciding whether to grant or deny an application to be a BAIID provider, the Secretary may take into consideration the applicant's past performance in manufacturing, distributing, installing or servicing BAIIDs if the applicant has previously engaged in this type of business;

9) A BAIID provider who has been qualified or recertified pursuant to this Section may at any time submit an amended application seeking certification to distribute and install a type of BAIID in addition to or other than the types previously approved for that BAIID provider;

10) The Secretary shall notify the applicant in writing of his decision regarding the application for qualification or requalification as a BAIID provider.
d) Services that Must be Provided. After qualification or requalification by the Secretary, BAIID providers shall provide the following services and meet the following requirements:

1) The BAIID provider shall submit proof of liability insurance with its application to the Secretary. General commercial liability and/or product liability insurance, which shall include coverage for installation services, shall be maintained with minimum liability limits of $1 million per occurrence and $3 million aggregate total. If the BAIID provider is not both the manufacturer and installer of the device, proof of liability insurance must be provided showing coverage of both the manufacturer and the installers. If proof of separate policies for the manufacturer and installers is provided, each policy must have minimum liability limits of $1 million per occurrence and $3 million aggregate total. Other commercially acceptable insurance arrangements, in the same minimum amounts, may be accepted at the discretion of the Secretary;

2) As a condition of being certified as a BAIID provider, the BAIID provider shall agree to indemnify and hold the State of Illinois and the Secretary, their officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of the BAIID provider, its employees, agents, or contractors in the manufacture, installation, service, repair, use or removal of a BAIID or performance of any other duties required by this Section;

3) All installations of BAIIDs shall be done in a workmanlike manner and shall be in accordance with the standards set forth in this Section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this Section. All BAIIDs must be installed and all reports to the Secretary must be made within the time frames established by this Subpart D;
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4) The BAIID provider shall only install models of BAIIDs that the provider has been authorized to install pursuant to this Section and the BAIIDs shall only be installed at installation sites reported to the Secretary pursuant to this Section;

5) Any BAIID provider that sells, rents, and/or leases ignition interlock devices in Illinois pursuant to this Subpart D shall report to the Secretary within 7 days all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make and serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle;

6) The BAIID provider shall provide a toll free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours, Monday through Friday;

7) The BAIID provider shall provide a course of training and written instructions for the BAIID permittee or MDDP offender on operation, maintenance, and safeguards against improper operations. The BAIID provider shall: warn the BAIID permittee that any tampering with or unauthorized circumvention of the device will result in the immediate cancellation of his or her RDP; instruct the BAIID permittee or MDDP offender to maintain a journal of events surrounding failed readings or problems with the device; warn the MDDP offender that any tampering with or unauthorized circumvention of the device will result in an extension of the summary suspension or a re-suspension for 3 months; warn the MDDP offender that any conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC or any violation, regardless of whether the individual was convicted, of Section 6-206.2 of the IVC will result in immediate cancellation of the MDDP. Copies of all materials used in this course of training shall be provided to the Secretary;

8) The BAIID provider shall provide service for malfunctioning or defective BAIIDs within a maximum of 48 hours after notification of a request for service. This support shall be in effect during the period the device is required to be installed in a motor vehicle;
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9) The BAIID provider shall provide, at the request of the Secretary, expert or other required testimony in any civil or criminal proceedings or administrative hearings as to issues involving BAIIDs, including the method of manufacture of the device and how the device functions;

10) If a BAIID provider requires a security deposit by a BAIID permittee or MDDP offender and the amount of the deposit required is more than an amount equal to one month's rental or lease fee, the security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the State of Illinois. The BAIID provider will provide the Secretary with a certified statement of the escrow account upon his request;

11) BAIID providers must submit monitor reports or reports of any other service to the Secretary whenever a BAIID is brought in for monitoring or whenever a BAIID is brought in pursuant to a service or notification report. Except as provided in subsection (d)(12), the reports must be submitted to the Secretary no later than 7 days from the date the BAIID is brought in or an appropriate portion of the BAIID is sent to the BAIID provider by an installer. All BAIIDs shall be recalibrated whenever they are brought in for any type of service or monitoring using a wet bath simulator or other approved equivalent procedure; i.e., dry gas standard. Effective January 1, 2009, BAIID permittees or MDDP offenders may not send in to the BAIID provider the appropriate part of the device for monitor reporting purposes. The BAIID permittee or MDDP offender is required to bring the vehicle with the device installed to the installer or BAIID provider for the purpose of having the installer or BAIID provider remove the old and install a new appropriate part of the device for submission to the BAIID provider for monitor reporting purposes;

12) The BAIID provider shall report to the Secretary within two business days the discovery of any evidence of tampering with or attempts to circumvent a BAIID. The BAIID provider shall preserve any available physical evidence of tampering circumvention and shall make that evidence available to the Secretary;

13) BAIID providers shall provide to the Secretary, upon request, additional reports, to include but not be limited to, records of installation,
reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State;

14) The BAIID provider shall provide service to all BAIID permittees or MDDP offenders who request services from the BAIID provider and who have met the requirements of this Subpart D, including the payment of fees due to the provider, unless the fees are otherwise waived by rule or statute;

15) The BAIID provider must immediately notify the Secretary in writing if it or its manufacturer or installer becomes unable to produce, supply, service, repair, maintain, or monitor BAIIDs in a manner that enables it to service BAIID permittees and MDDP offenders as required and within the deadlines specified in this Subpart D;

16) The BAIID provider shall provide the Secretary a list of all locations in Illinois where the device may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored. The BAIID provider shall notify the Secretary within 48 hours of any new installation locations or any installation locations that are closed;

17) The BAIID provider shall install, monitor and deinstall authorized BAIIDs without fee to any MDDP offender found to be indigent by the court of venue who requests services from the BAIID provider and who presents written documentation of indigency from the court in a form prescribed by the Secretary;

18) The Secretary may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Subpart D, including, but not limited to, installation verification forms, monitoring report forms, noncompliance report forms, notices of calibration, verification, tampering or circumvention, and removal or deinstallation report forms, and information necessary to implement and monitor the indigent surcharge payments to the Indigent BAIID Fund and payment provisions from the Indigent BAIID Fund set forth in Section 6-206.1 of the IVC and Section 1001.444;
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1948) The Secretary shall review and approve leases or rental agreements the BAIID provider intends to utilize between the BAIID provider and the BAIID permittee or MDDP offender. The BAIID provider shall submit to the Secretary a copy of the schedule of all fees that will be charged to BAIID permittees or MDDP offenders, and shall submit an amended schedule of fees whenever there is a change to the BAIID provider's fees;

2049) The BAIID providers shall agree to take assignments to unserved areas of Illinois pursuant to this Section, as those areas are defined in subsection (i)(2);

2120) The Secretary shall have the right to conduct independent inspections of BAIID providers, manufacturers and installers, including inspection of any devices present at the time of the inspection, to determine if they are in compliance with the requirements of this Subpart D. The Secretary shall notify in writing and require the BAIID provider to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the BAIID provider shall notify the Secretary in writing of any corrective action taken;

2244) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, provide the Secretary with not more than two BAIIDs for each model that is certified under this Section. These models will be used for demonstration and training purposes.

e) Criteria for Certification of Interlock Devices. Only BAIIDs that have been certified for use in Illinois pursuant to this Section may be installed in the vehicles of BAIID permittees and MDDP offenders by BAIID providers. Certification of a BAIID may be granted by the Secretary based on the following criteria:

1) Certification Approval of a device may be granted by the Secretary, based on a review and evaluation of test results from any nationally recognized and certified laboratory test facility that is accredited by one of the following: International Standards Organization (ISO-25), National Voluntary Lab Accreditation Program – National Institutes of Standards & Technology (NVLAP), or Clinical Laboratory Improvement Amendments – U.S. Department of Health and Human Services (CLIA). The evaluation and test results must affirm the device's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices
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(BAIIDs) promulgated by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C. 20590, (202)366-5593, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:

A) 1.4.S, Power, if the device is not designed to be operated from the battery;

B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below -20° C and above +70° C;

C) 2.3.S, Warm Up, if the device is not designed to be operated below -20° C;

D) 2.5.S, Temperature Package, if the device is not designed to be operated below -20° C and above +70° C;

2) The BAIID provider must certify that the BAIID:

A) Does not impede the safe operation of a vehicle;

B) Minimizes opportunities to bypass the device;

C) Performs accurately and reliably under normal conditions;

D) Prevents a BAIID permittee or MDDP offender from starting a vehicle when the BAIID permittee or MDDP offender has a prohibited BrAC; i.e., P ≥ 0.025;

E) Satisfies the requirements for certification set forth in this Section;

3) No device shall be certified approved if it demonstrates an accuracy rate ≥ 0.01 in unstressed conditions or ≥ 0.02 in stressed conditions. The terms "stressed" and "unstressed" shall be defined according to the NHTSA standards referred to in subsection (e)(1);

4) Any device to be approved shall be designed and constructed with an alcohol setpoint of 0.025;
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5) Any device to be certified shall require the operator of the vehicle to submit to a running retest at a random time within 5 to 15 minutes after starting the vehicle. Running retests shall continue at a rate of two per hour in random intervals not to exceed 45 minutes after the first running retest;

6) Any device to be certified shall be designed and constructed to immediately begin blowing the horn if:
   A) The running retest is not performed;
   B) The BrAC readings of the running retest is 0.05 or more; or
   C) Tampering or circumvention attempts are detected;

7) The BAIID shall be required to have permanent lockout 5 days after it gives service or inspection notification to the BAIID permittee or MDDP offender if it is not serviced or calibrated within that five day period.
   A) The BAIID shall give service or inspection notification to the BAIID permittee or MDDP offender upon the occurrence of any of the following events:
      iA) Every instance in which the device registers 3 BrAC readings of .05 or more within a 30 minute period;
      iiB) Any attempted tampering or circumvention;
      iiiC) The time for the BAIID permittee or MDDP offender to take the vehicle for the initial monitor report;
      ivD) Every 60 days after the initial monitor report;
   B) In addition, the BAIID shall record and communicate to the BAIID permittee or MDDP offender and to the Secretary's office via monitor reports all of the preceding events and all starts of the vehicle, both successful and unsuccessful;
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8) The device shall be required to have 24 hour lockout anytime the BAIID permittee or MDDP offender registers 3 BrAC readings of 0.05 or more within a 30 minute period;

9) Certification Approval of a device may be withdrawn by the Secretary, based on a field testing protocol developed by the Secretary to determine the device's ability to operate in a consistently reliable manner and based upon review of field performance results; a review of BAIID usage by BAIID permittees and MDDP offenders; and BAIID monitor reports;

10) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, install not more than three of each model of BAIID for which certification is sought in the vehicles provided by the Secretary for field testing. The Secretary may independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering;

11) Upon the request of the Secretary, for each model of BAIID certified under this Section, the BAIID provider shall provide a total of at least 10 hours of training to the Secretary's employees at no cost to the State of Illinois. This training shall be held at the times and locations within the State designated by the Secretary. The training shall be designed to familiarize the Secretary's employees with the installation, operation, service, repair and removal of the BAIIDs and with the training and instructions that the BAIID provider will give to BAIID permittees and MDDP offenders. The BAIID provider shall also provide the Secretary, upon request, the following materials:

A) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal of the BAIID;

B) Complete technical specifications describing the BAIID's accuracy, reliability, security, data collection and recording, tamper and circumvention detection, and environmental features;

12) Any device that is not certified approved shall be re-tested at the request of the BAIID provider but not more often than once in a calendar year;
13) The After August 1, 2003, the Secretary shall not accept for certification approval any BAIID that uses Taguchi cell technology to determine BrAC. By September 1, 2003, the Secretary shall publish an initial list of BAIIDs that do not utilize Taguchi cell technology and that have been approved for use in Illinois by the Secretary. The devices on this list shall meet all standards set forth in this Section. Between January 1, 2004 and December 31, 2004, approved BAIID service providers shall only install approved devices that do not utilize Taguchi cell technology. Taguchi cell devices installed before January 1, 2004 may remain installed until the end of the contract period or until January 1, 2005, whichever occurs first. Beginning January 1, 2005, no devices using Taguchi cell technology shall be permitted in BAIID permittee vehicles;

14) After January 1, 2005, new BAIIDs BAIID installations must use, as their anti-circumvention method, one of the following technologies: either a positive>negative>positive air pressure test requirement, or a mid-test hum tone requirement. BAIIDs installed and in use as of January 1, 2005 that do not use one of these anti-circumvention methods must be replaced by March 1, 2005. After January 1, 2005, BAIID providers may submit for approval to the Secretary new anti-circumvention technologies. Upon approval by the Secretary, pursuant to the procedures in this subsection (e), these technologies shall be included with the previously mentioned anti-circumvention technologies as acceptable for use by BAIID providers.

f) BAIID Installers

1) All installations of BAIIDs must be performed by installers identified to the Secretary as employees of or contractors of a qualified certified BAIID provider. The provider must inform the Secretary whether installation is being done by its own employees, contractors, or both. All installations shall be performed in a workmanlike manner. BAIID providers shall be responsible for their installer's compliance with this Subpart D. A BAIID provider may be disqualified decertified by the Secretary for the noncompliance of its installer with the requirements of this Subpart D;
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2) All BAIID installers shall have all tools, test equipment and manuals needed to install devices and screen motor vehicles for acceptable mechanical and electrical condition prior to installation;

3) The installer shall provide adequate security measures to prevent access to the device (tamper seals or installation instructions);

4) The installer shall appropriately install devices on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the device manufacturer's instructions. All connections shall be soldered and covered with tamper seals. It is the BAIID permittee's or MDDP offender's responsibility to repair the vehicle if any prior condition exists that would prevent the proper functioning of the device. The installer shall inform the BAIID permittee or MDDP offender that a problem exists, but shall not be responsible for repairing the vehicle;

5) The installer shall not install devices in a manner that could adversely affect the performance of the device or impede the safe operation of the motor vehicle;

6) The installer shall verify that a device is functioning properly after it has been installed in the motor vehicle;

7) The installer shall restore a motor vehicle to its original condition when a device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent;

8) Where the installer is also providing monitoring and other services for the BAIID after installation, the installer shall perform all of the duties that are associated with service after the installation and that are required by this Section of a BAIID provider. These duties shall include, but are not limited to, completing all monitoring reports and/or mailing in the appropriate part of the device to the BAIID provider, making notification of any evidence of tampering or circumvention, and recalibrating BAIIDs whenever they are brought in for service or monitoring.
g) Disqualification of BAIID Providers. The Secretary shall disqualify a BAIID provider from providing BAIID services in Illinois, upon written notification and a 30 day opportunity to come into compliance, in any of the following cases:

1) Failure to submit monitor reports in a timely manner as provided in subsections (d)(11) and (d)(12). If the Secretary finds, through investigation, that the BAIID permittee or MDDP offender did take the vehicle with the installed device to the BAIID provider, or sent the appropriate portion of the device to the BAIID provider for a monitor report in a timely manner, a warning notification shall be sent to the BAIID provider indicating that a third such occurrence within a 12 month period will result in disqualification/decertification;

2) Failure to maintain liability insurance as required;

3) Failure to install certified/approved devices within the time requirements of this Subpart D;

4) Failure to comply with all of the duties and obligations contained in this Subpart D;

5) Failure to provide BAIID permittees or MDDP offenders with correct information regarding the requirements of this Subpart D;

6) Failure to submit a required surcharge to the Secretary for deposit in the Indigent BAIID Fund as required in Section 6-206.1 of the IVC and Section 1001.444. If the amount in dispute is not resolved within the above 30 day period, the BAIID provider shall be disqualified unless the BAIID provider submits, within the 30 day period, a written request to review the amount in dispute to the BAIID Division. The dispute will then be resolved according to the terms of the contract entered into between the BAIID provider and the Secretary.

h) Notification of Decertification/Disqualification. Upon decertification of a BAIID or the disqualification/decertification of or the cessation of the operation of a BAIID provider, the Secretary shall notify in writing all affected BAIID permittees or MDDP offenders of the decertification of the BAIID or the disqualification/decertification of or the cessation of the operation of a BAIID provider.
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i) Designation of Installation Sites

1) Each BAIID provider shall be responsible for establishing installation sites within the State to service BAIID permittees and MDDP offenders;

2) The Secretary shall monitor the location of installation sites throughout Illinois. If the Secretary determines that any place in Illinois is not within 75 miles of an installation site, the Secretary shall randomly select one of the certified BAIID providers and require that BAIID provider to establish an installation site in the unserved area. If a second or subsequent area of Illinois is determined not to be within 75 miles of an installation site, the Secretary shall randomly select a BAIID provider other than the one selected previously and require that BAIID provider to establish an installation site in the unserved area. As a condition of being certified by the Secretary, BAIID providers must agree to take assignments to unserved areas pursuant to this subsection (i)(2).

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

Section 1001.444 Monitoring Device Driving Permit (MDDP) Provisions Installer’s Responsibilities (Repealed)

a) Order of the Court; Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required

1) The issuance of an MDDP to a first offender (MDDP offender), as defined in Section 11-500 of the IVC, shall be conditioned upon receipt by the Secretary of an order from the court of venue, on a form prescribed by the Secretary, and the installation and use of a BAIID in any vehicle operated, as required by Section 6-206.1 of the IVC. Only BAIIDs certified by the Secretary under Section 1001.442 of this Part may be utilized. As provided in Section 6-206.1 of the IVC, an MDDP offender must pay a non-refundable fee in an amount equal to $30 per month times the number of months or any portion of a month remaining on the statutory summary suspension at the time of the receipt in the office of the Secretary of the order to issue the MDDP from the court. No fee will be charged for any month in which the court order is received in the office of the Secretary on or after the 20th day of that month. This total, one time payment for each
MDDP issued must be paid in advance and prior to the issuance of the MDDP. Payment must be submitted in the form of a money order, check or credit card charge (with a pre-approved card), made payable to the Secretary of State.

2) Any MDDP offender whose summary suspension is extended or who is re-suspended as provided for in Section 6-206.1 and who applies for and obtains an extension or re-issuance of an MDDP, shall likewise be required to pay the non-refundable fee for the length of the period of extension or re-suspension under the same terms and conditions as stated in subsection (a)(1). Any such suspension will not be terminated until payment of any and all fees due under this Section is made.

3) Any MDDP offender whose driving privileges are otherwise suspended, revoked, cancelled or become otherwise invalid is not eligible to receive an MDDP.

4) Any MDDP shall be invalid and must be surrendered to the Secretary if an MDDP offender's driving privileges subsequently are suspended, revoked, cancelled or become otherwise invalid under any provision of the IVC, during the issuance period of the MDDP. The MDDP offender may petition, at a formal hearing conducted pursuant to Section 2-118 of the IVC, for a restricted driving permit during the period of suspension, revocation, cancellation or invalidation, if available pursuant to the IVC. In order to obtain a restricted driving permit pursuant to this Section, the MDDP offender must also satisfy the other provisions of this Part. Further, should a restricted driving permit be granted, the MDDP offender may only operate vehicles in which a properly working BAIID has been installed and is subject to all of the provisions of this Section.

5) Any MDDP offender whose MDDP is invalidated as provided in subsection (a)(4), except those MDDP offenders cancelled under Section 6-206.1(c-1) of the IVC, may obtain another MDDP upon termination of the sanction that led to the invalidation as long as the offender is still eligible for an MDDP. The offender must notify the Secretary in writing and submit the statutory permit fee. Upon issuance of an MDDP, the MDDP offender is subject to all of the provisions of this Section.
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6) The MDDP offender may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the Secretary's BAIID Division. This voluntary termination does not in any way affect any sanction imposed under this Section. An offender may also resume participation by notifying the BAIID Division in writing, but may do so only once during the term of the suspension, extension or re-suspension due to a violation of the program.

b) Compliance – Installation of BAIID/Notification to the Secretary

1) The MDDP Offender. Upon the issuance of an MDDP under this Section, the Secretary shall make available a list of certified BAIID providers to the MDDP offender. The MDDP offender may operate the vehicle for 14 days from the issuance date stated on the MDDP without the BAIID installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the BAIID. Failure to comply with this requirement will result in the cancellation of the MDDP issued.

2) The Installer/BAIID Provider. A BAIID provider or installer must:

A) Be qualified and comply with all of the procedures and responsibilities set forth in Section 1001.442 of this Part;

B) Upon installation, notify the Secretary, in a manner and form specified by the Secretary, that a BAIID has been installed in the vehicles designated by the MDDP offender within 7 days from the date of the installation of the BAIID;

C) Upon notification from the MDDP offender, as evidenced by the written form from the court of venue that the MDDP offender has been found to be indigent, not charge the MDDP offender for any installation, monthly monitoring, deinstallation fees, or a security deposit that exceeds one month's BAIID rental fee.

D) Upon request, make records available to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
c) Compliance – Driving with BAIID. Any MDDP offender receiving a MDDP under this Section must comply with the following requirements:

1) Operate only vehicles with an installed, operating BAIID certified by the Secretary whether the vehicle is owned, rented, leased, loaned or otherwise in the possession of the MDDP offender, as required by the MDDP issued under this Section.

2) Take any and all vehicles operated by the MDDP offender and with a BAIID installed to the BAIID provider or installer at least every 30 days, which shall be referred to as the monitoring period, commencing with the date of installation, for the purposes of calibration and having a monitor report of the BAIID's activity prepared and sent to the Secretary by the BAIID provider or installer.

3) Take the vehicle with the BAIID installed to the provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.

4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the BAIID and the name of the driver operating the vehicle at the time of the event. If BAIIDs have been installed on multiple vehicles, a separate journal must be kept for each vehicle.

5) Do not have a BAIID removed or deinstalled from vehicles without authorization from the Secretary and, when applicable, surrender the MDDP to the Secretary or his or her designee.

6) Do not commit any of the violations listed in subsection (d).

d) Violations. Any of the following, when committed by an MDDP offender, constitutes a violation of the MDDP program:

1) A conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC;

2) Tampering or attempting to tamper with, or unauthorized circumvention of, the BAIID;
3) A violation of Section 6-206.2 of the IVC;
4) 10 or more unsuccessful attempts to start the vehicle with a BAIID installed within a 30 day period;
5) 5 or more unsuccessful attempts to start the vehicle within a 24 hour period;
6) A BrAC reading of 0.05 or more;
7) Failing a running retest, or failing to take a running retest;
8) Removing the BAIID without authorization from the Secretary;
9) Failing to utilize the BAIID as required;
10) Failing to submit a BAIID for a monitor report in a timely manner.

e) Sanctions Upon Commission of a Violation. Upon notification of any of the violations in subsection (d), the Secretary shall take the following action:

1) For a conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) and/or any violation of Section 6-206.2 of the IVC, immediately cancel the MDDP and authorize the immediate removal/deinstallation of the BAIID. If the MDDP had expired prior to the Secretary receiving notification of the conviction, supervision or violation, the Secretary shall re-suspend the MDDP offender as provided for in Section 6-206.1(l) of the IVC.

2) For any MDDP offender whose monitor report, physical inspection by an installer, or other sufficient evidence shows any tampering with or unauthorized circumvention of the BAIID, send the MDDP offender a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter, and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the
summary suspension is already terminated prior to the Secretary receiving the monitor report/physical inspection showing the violation, the Secretary shall re-suspend for 3 months.

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

4) For any MDDP offender whose monitor reports show a failure to successfully complete a running retest, send the MDDP offender a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.

5) For a removal/deinstallation of a BAIID without authorization, including a removal or deinstallation caused by the MDDP offender's failure to pay lease or rental fees due to the BAIID provider, the Secretary shall immediately cancel the MDDP.
6) For a failure to utilize the BAIID by the MDDP offender as required, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.

7) For a failure to submit a BAIID for a monitor report in a timely manner, the following procedure will be followed: unless notified by a BAIID provider that the BAIID has been removed, all monitor reports shall be submitted to the Secretary within 37 days after installation and within every 37 days thereafter. If the Secretary fails to receive an MDDP offender's monitor reports within the 37 days, the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and MDDP offender by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the MDDP offender failed to take in a vehicle with the BAIID for timely monitor reports, then the Secretary will send a letter to the MDDP offender stating that, if the BAIID is not taken in for a monitor report within 10 days after the date of the letter, the Secretary will extend the summary suspension for 3 months, or, if the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary will re-suspend for 3 months.

8) Violations detected in any one monitoring period shall not, however, result in extensions or re-suspensions totaling more than six months.

f) Hearing to Contest Cancellation of MDDP or Extension of the Summary Suspension. Any MDDP offender whose summary suspension is extended or re-suspended, or whose MDDP is cancelled as provided for in this Section, may request a hearing to contest that action. A written request, along with the $50 filing fee, must be received or postmarked within 30 days from the date the notice of extension, re-suspension or cancellation was mailed by the Secretary. The hearing will be conducted as any other formal hearing under this Part.

g) MDDPs – Content. Any MDDPs issued as provided for in this Section shall, in addition to all other requirements, state at a minimum that:
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1) The MDDP is issued pursuant to the BAIID requirements of this Section and that a vehicle operated by an MDDP offender must be equipped with a certified, installed, properly operating BAIID;

2) The provisions of the MDDP also allow the MDDP offender to drive to and from the BAIID provider or installer for the purpose of installing the BAIID within 14 days after the issuance date on the MDDP;

3) Once the BAIID is installed, the MDDP offender may drive the vehicle with the BAIID properly installed for any purpose and at any time;

4) If applicable, the MDDP offender qualifies for any modification or waiver of BAIID, as provided in subsection (i), or employment exemption from BAIID, as provided in subsection (j).

h) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the MDDP offender's performance and compliance with the BAIID requirements under this Subpart D. The reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.

i) Modification or Waiver of BAIID. Upon request of the MDDP offender, the Secretary may consider a medical or physical BAIID modification or waiver for an MDDP issued under this Section. The MDDP offender must:

1) Submit a medical report establishing the inability to utilize the BAIID.

2) Have a hearing, pursuant to Subpart A, at which the MDDP offender must prove compliance with the alcohol/drug requirements under this Subpart D.

j) Employment Exemption from BAIID Requirements. In determining whether an MDDP offender is exempt from the BAIID requirements pursuant to the waiver provided for in Section 6-206.1 of the IVC, the following shall apply:

1) The term "employer" shall not include an entity owned or controlled in whole or in part by the MDDP offender or any member of the MDDP offender's immediate family, unless the entity is a corporation and the MDDP offender and the MDDP offender's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation.
Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings.

2) The exemption shall not apply when the employer's vehicle is assigned exclusively to the MDDP offender and used solely for commuting to and from employment.

k) Disqualification/Decertification of BAIID Provider and BAIID Device. The Secretary must notify the MDDP offender of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The MDDP offender must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The MDDP offender must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The MDDP offender must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the MDDP offender's MDDP. All costs related to any change in a BAIID provider or a BAIID shall be paid by the MDDP offender, unless the court has deemed the MDDP offender indigent.

l) Indigent BAIID Fund

1) Any BAIID provider who installs a BAIID under the MDDP program must pay 5% of the total gross revenue received by each contract entered into with an MDDP offender who is not found to be indigent by the court of venue, hereinafter referred to as the surcharge.

A) The surcharge shall include only those fees normally charged an MDDP offender for installation, monthly rental and monitoring, and deinstallation of the BAIID during the term of the MDDP offender's statutory summary suspension.

B) The surcharge shall be submitted to the Secretary by the 15th of each month and shall include all surcharges incurred during the previous month. The surcharge must be submitted in the form of a check, made payable to the Secretary of State, or by electronic transfer as agreed to by the Secretary and the BAIID Provider.
C) Should an MDDP offender's summary suspension be extended or re-suspended under the MDDP program and the offender continue to participate in the program, the surcharge is due for the period of extension or re-suspension.

2) Any BAIID provider who installs a BAIID under the MDDP program for an MDDP offender who has been found to be indigent by the court of venue may apply for reimbursement for any fees incurred as set out in subsection (b)(2)(C). The request must be in a form and in the manner prescribed by the Secretary. The Secretary will authorize payments in accordance with Section 6-206.1(o) of the IVC.

3) The Secretary may audit the records of BAIID providers or installers to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.

m) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Added at 32 Ill. Reg. _____, effective ___________)


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1) **Heading of the Part:** Mentoring Program for New Principals

2) **Code Citation:** 23 Ill. Adm. Code 35

3) **Section Numbers:** Proposed Action:
   - 35.10 Amendment
   - 35.20 Amendment
   - 35.30 Amendment
   - 35.40 Amendment
   - 35.50 Amendment
   - 35.60 Amendment
   - 35.70 Amendment

4) **Statutory Authority:** 105 ILCS 5/2-3.53a

5) **A Complete Description of the Subjects and Issues Involved:** These revisions reflect ISBE staff's experience in implementing this new program. The most notable of the changes is the addition of a definition of "first-year principal" that will cause mentoring to occur during the first full year of service if the first actual year begins late in a school year. In addition, Section 35.20(e) is being revised so that the administrative entity for the program can make direct payments to mentors if that is preferred by the providers. One of the letters of support for individuals who wish to serve as mentors has been determined to be unnecessary, and the remaining changes simply involve referring to "providers" consistently rather than "mentoring entities".

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:** This rulemaking will not create or enlarge a State mandate.
12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street (S-493)  
Springfield, Illinois 62777  
217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

13) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not-for-profit corporations affected:** None

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of professional skills necessary for compliance:** None

14) **This rulemaking was not included on either of the 2 most recent agendas because:** The changes being proposed were not identified as desirable until the spring of this year.

The full text of the Proposed Amendments begins on the next page:
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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 35
MENTORING PROGRAM FOR NEW PRINCIPALS

Section
35.10 Purpose and Applicability
35.20 Annual Program Planning; Fiscal Provisions
35.30 Requirements of the Program
35.40 Eligibility of Mentors
35.50 Training for Mentors
35.60 Approval and Role of Providers
35.70 Alternate Arrangements

AUTHORITY: Implementing and authorized by Section 2-3.53a of the School Code [105 ILCS 5/2-3.53a].


Section 35.10 Purpose and Applicability

This Part establishes requirements for the selection and training of experienced principals to serve as mentors for new principals and for new principals' participation in the mentoring program designed for them, as required by Section 2-3.53a of the School Code [105 ILCS 5/2-3.53a]. The provisions of this Part shall apply to each Illinois school district, other than a school district organized under Article 34 of the School Code [105 ILCS 5/Art. 34], and to each first-year principal in an affected school district, except as otherwise provided by Section 2-3.53a(f) of the School Code. For purposes of this Part, a "first-year principal" is an individual who either:

- is in his or her first school year of employment as a principal, if the employment began prior to January 1 of that school year; or

- is in his or her second school year of employment as a principal, if the employment began on or after January 1 of a prior school year.
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(Source: Amended at 32 Ill. Reg. _____, effective ____________)

Section 35.20 Annual Program Planning; Fiscal Provisions

a) No later than May 1 of each year, each district superintendent shall report to the State Superintendent of Education, or to the State Superintendent's designee, the number of first-year principals who are expected to be working in the district in the coming school year and required to participate in the mentoring program. No later than June 30, each district superintendent shall update this information with the names, administrative certificate numbers, and assigned schools of the individuals chosen.

b) Based on the number of first-year principals expected statewide and the level of available funding foreseen, the State Superintendent shall determine whether the appropriation is likely to be sufficient to require operation of the mentoring program in the coming year. This calculation shall be based on a cost figure of $2,000 for each first-year principal in the program plus the cost of delivering the required training, coordinating the mentors' assignments, and providing the other necessary structure and support for the program. The program shall be implemented in a given year only if sufficient funds are available based on these cost factors.

c) As soon as possible after the level of the appropriation for a given year has been established, the State Superintendent shall notify the affected districts and the provider training entities approved under Section 35.60 of this Part regarding whether the program will operate in the coming year.

d) No later than June 15 prior to a school year during which the program will be in operation, each experienced principal who intends to serve as a mentor shall notify the State Superintendent or designee of his or her availability, supply the required documentation of eligibility (see Section 35.40 of this Part), and, if employed in a school or in a regional office of education, provide verification in a format specified by the State Superintendent of supervisory approval for his or her participation. The State Superintendent or designee shall:

1) publicize the list of approved provider training entities so that individuals who need to complete the required training can do so and be included in the pool of available mentors; and
2) make the list of those who have expressed intent available to the approved providers so that these individuals can be given priority in admission to the required training over others who may wish to complete the training simply for its value as professional development.

e) When verification is received in accordance with the requirements of Section 35.30(h) of this Part that a mentor has provided the service required under this Part, the State Superintendent of Education or designee shall make a payment in the amount of $2,000 either to the approved provider that facilitated the mentoring relationship for disbursement to the mentor or directly to the mentor if requested by the provider.

(Source: Amended at 32 Ill. Reg. _______, effective ____________)

Section 35.30 Requirements of the Program

Each new principal shall complete a mentoring program that complies with the requirements of this Section, provided that there is a sufficient appropriation for the program applicable to the fiscal year that includes the individual's first school year of service as a principal (see Section 2-3.53a of the School Code and Section 35.20 of this Part).

a) Mentors who meet the requirements of this Part shall be paired with new principals by providers approved under Section 35.60 of this Part, on the basis of the factors identified in Section 2-3.53a(d) of the School Code [105 ILCS 5/2-3.53a(d)]. Each approved provider shall notify the affected district superintendents of the assignments made, and each affected superintendent shall acknowledge the new principals' obligation to participate in the program.

b) The role of each mentor shall include:

1) forming a supportive professional relationship with the new principal;

2) assisting the new principal in adjusting to his or her new role and in developing skill as an instructional leader;

3) coaching, observing, and providing feedback to the new principal on aspects of organizational management;
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4) helping the new principal identify significant problems and issues that act as barriers to school improvement, as well as meaningful solutions to these; and

5) providing structured opportunities for the new principal's reflection on his or her educational practice.

e) The mentor and recipient principal shall spend no fewer than 50 contact hours in activities demonstrably involved in the mentoring process, as delineated in subsection (b) of this Section. The mentor and recipient may conduct some or most of their contact using means of telecommunication but shall meet in person at least:

1) near the beginning of the school year, in order to initiate the mentoring relationship;

2) near the middle of the school year, in order to complete the survey of progress required by Section 2-3.53a(e) of the School Code [105 ILCS 5/2-3.53a(e)]; and

3) at the conclusion of the school year, in order to complete the verification form and certify completion of the program as required by that Section.

d) Each mentor and his or her employer, if any, shall be responsible for reaching a mutually agreeable arrangement regarding the mentor's availability for activities that necessarily occur during paid time, such as observing the first-year principal.

e) Time spent traveling by the mentor or recipient to meet with the other party shall not be counted as part of the required contact hours. The mentor shall bear the cost of any travel unless otherwise agreed with the mentor's employer.

f) Each recipient of mentoring under this Part shall maintain a log of his or her work with the assigned mentor that includes at least the date of each contact, the purpose, and the amount of time spent.

g) At the conclusion of the school year, the recipient shall prepare a summary of the mentoring experience, indicating how selected aspects of his or her practice have been affected by the interaction with the assigned mentor.
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h) The year-end summary shall be included in the verification to be signed by both individuals to signify completion of the program. This document shall be prepared in a format specified by the State Superintendent of Education and shall also be signed by the recipient principal's supervisor and by the mentor's supervisor, if any, to signify completion of the work outlined in the log and the summary. Each mentor shall submit the verification to the provider with which he or she is enrolled, and the provider shall compile for the State Superintendent a list of the mentors who have provided the required services under the program and for whom payment is due.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

Section 35.40   Eligibility of Mentors

Pursuant to Section 2-3.53a of the School Code, eligibility for service as mentors under this Part shall be limited to individuals who have served as principals in Illinois for at least three years, who have demonstrated success as instructional leaders, and who have completed the training required pursuant to Section 35.50 of this Part.

a) For purposes of this Part, "at least three years" means no fewer than three full school years, provided that a principal need not have accrued all three years' service in the same school or district.

b) For purposes of this Part, an experienced principal shall be considered to have demonstrated success as an instructional leader if he or she holds an Illinois administrative certificate and submits to the State Superintendent of Education or designee at least two to three letters of professional reference in accordance with this subsection (b).

1) Each principal shall submit at least one letter from a certified staff member who is not an administrator and has served for at least one full school year under the principal's supervision.

2) Each principal shall submit one letter from another principal who has knowledge of the individual's work.

3) Each principal shall submit at least one letter from a district superintendent or assistant superintendent under whose supervision the principal has served for at least one full school year, or from a regional superintendent who has knowledge of the principal's work.
Each required letter of reference shall include:

A) the nature of the working relationship between the letter-writer and the principal in question;

B) the letter-writer's reasons for believing that the principal in question is of ethical character and possesses strong interpersonal skills; and

C) one or more specific examples of the principal's accomplishments related to particular aspects of the Illinois Professional School Leader Standards set forth at 23 Ill. Adm. Code 29.100.

c) No individual shall serve as a mentor if more than five years have elapsed since his or her last date of service as a principal in an Illinois school or service in some other educational capacity that routinely requires interaction with principals and familiarity with the issues and challenges they face. Evidence of the latter type of service shall be a contract, job description, or other document generated by the employing entity.

(Source: Amended at 32 Ill. Reg. ____, effective ____________)

Section 35.50 Training for Mentors

a) Prior to beginning his or her first assignment as a mentor under this Part, each experienced principal shall be required to complete a standardized training program prescribed by the State Superintendent of Education. This training program shall be made available at no cost to the participating mentors and shall focus on equipping the participants to perform the functions outlined in Section 35.30 of this Part. The training program shall address areas of expertise including, but not limited to:

1) the Illinois Professional School Leader Standards (see 23 Ill. Adm. Code 29.100);

2) ethics;

3) principles of adult learning;
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4) establishing a mentoring relationship; and
5) mentoring skills and techniques.

b) In admitting individuals to the required training, providers shall give first priority to those who intend to be included in the pool of available mentors for the program as described in Section 35.20(d) of this Part. Other individuals may be accommodated if space permits.

c) Each provider approved under Section 35.60 of this Part shall provide to the State Superintendent or designee a list identifying the individuals who have completed the required training sequence.

d) Each mentor who intends to continue providing service under this Part shall participate in annual "refresher" training.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

Section 35.60 Approval and Role of Providers

The State Superintendent of Education shall approve one or more organizations representing Illinois principals, institutions of higher education, community colleges, regional offices of education, school districts, or other educational entities to administer and implement the new principal mentoring program according to the requirements stated in Section 35.30 of this Part, including delivering the training program for mentors that is required under Section 35.50 of this Part.

a) Any entity seeking approval under this Section shall submit to the State Superintendent an application, in a format prescribed by the State Superintendent, outlining the organization's qualifications for providing professional development to educators, including information specific to the organization's experience with serving potential mentors and recipients of mentoring.

b) The State Superintendent shall approve as providers one or more entities whose applications:

1) provide evidence of an overall commitment to professionalizing education and school improvement efforts;
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2) demonstrate capacity to meet the needs of an identified geographic area or set of districts; and

3) indicate that the applicants have staff or access to other presenters who:
   A) have been employed in roles requiring mastery of the Illinois Professional School Leader Standards; and
   B) have experience in providing professional development to educators.

c) Each approved provider shall, with respect to each mentor who enrolls with that provider:
   1) provide the initial training required under Section 35.50 of this Part if the individual has not already completed it;
   2) to the extent necessitated by the level of demand, facilitate the individual's assignment to one or more new principals based on the factors set forth in Section 2-3.53a of the School Code;
   3) provide support and professional resources to the mentor in the course of his or her mentoring relationships;
   4) provide quarterly networking sessions to enhance the mentor's skills and provide structured opportunities for problem-solving;
   5) guide the mentor in the compilation of information that will contribute to the evaluation of individual mentoring relationships and of the mentoring program as a whole;
   6) receive and distribute payments to mentors as delineated in Section 35.20(e) of this Part; and
   7) provide annual "refresher" training.

d) Approval of provider training entities shall be valid for three years. To request renewal, a provider shall, no later than March 1 of the year of expiration, submit
an application in a format specified by the State Superintendent of Education, containing:

1) a description of any significant changes in the material submitted as part of its approved application; or

2) a statement that no significant changes have occurred.

e) A provider's approval shall be renewed if the application conforms to the requirements of subsection (d) of this Section, provided that the State Superintendent has received no evidence of the provider's failure to provide the required services under the program.

f) The State Superintendent of Education may evaluate any approved provider at any time to ensure the consistent quality of the mentoring program. Upon request by the State Superintendent, a provider shall supply information regarding its activities in conjunction with the mentoring program, which the State Superintendent may monitor at any time. In the event an evaluation indicates that a provider is not furnishing services in keeping with subsection (c) of this Section, the State Superintendent may withdraw approval of the provider.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)

Section 35.70  Alternate Arrangements

In cases where an assigned mentor becomes unavailable after a mentoring assignment has been initiated, the approved provider training entity that facilitated the mentor's assignment shall be responsible for identifying a replacement to complete the assignment and for determining the appropriate allocation of the payment to the individuals involved.

(Source: Amended at 32 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Pay Plan

2) **Code Citation**: 80 Ill. Adm. Code 310

3) **Section Numbers**: 
   - 310.40 Amendment
   - 310.45 Amendment
   - 310.47 Amendment
   - 310.110 Amendment
   - 310.130 Amendment
   - 310.220 Amendment
   - 310.230 Repealed
   - 310.260 Amendment
   - 310.280 Amendment
   - 310.290 Repealed
   - 310.295 Repealed
   - 310.410 Amendment
   - 310.415 New
   - 310.450 Amendment
   - 310.495 Amendment
   - 310.500 Amendment
   - 310.APPENDIX A TABLE AA Amendment
   - 310.APPENDIX B Amendment
   - 310.APPENDIX C Repealed
   - 310.APPENDIX D Amendment
   - 310.APPENDIX G Amendment

4) **Statutory Authority**: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a]

5) **Effective Date of Amendments**: July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

9) Notices of Proposal Published in the Illinois Register: 32 Ill. Reg. 4417; April 4, 2008

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Most of the changes are based on the intervening rulemaking, peremptory amendments at 32 Ill. Reg. 6097 and 32 Ill. Reg. 7154 or recommendations of JCAR staff. Otherwise, one typographical error is corrected in Section 310.260. JCAR initiated the Second Notice Changes to the alphabetization of titles in Section 310.410, to abbreviate other states in Section 310.495, and to clarify the Public Service Administrator title's options in Section 310.500. Included within Section 310.220 are expedited corrections at 32 Ill. Reg. 9747 to peremptory amendments at 32 Ill. Reg. 7154.

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

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: In the Table of Contents, the headings for Sections 310.230, 310.290, 310.295 and 310.Appendix C indicate that the sections are repealed. The heading for the new Section 310.415 is added.

In Section 310.40, the information pertaining to fiscal year 2008 is removed. The reference to Medical Administrator rates is removed. The 310.Appendix A is made part of the Pay Plan and described as having pay grades or assigned rates of pay.

In Section 310.45 subsection (c), the reference to out-of-state rates in Section 310.290 is removed and Section 310.495 is added. In subsection (d), the reference to foreign service rates is removed.

In Section 310.47, the table no longer in effect is removed. The in-hiring rates for the Youth Supervisor Trainee and Youth Supervisor II titles are removed from the table effective January 1, 2008 because the Civil Service Commission approved the abolishment of the titles effective September 1, 2007. The in-hiring rates for the Engineering Technician I, II, III and IV titles are updated. The references to out-of-state, foreign service and medical administrator rates are removed from subsection (a).
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In Section 310.110, the fiscal year 2008 information for salary grade positions is removed.

In Section 310.130, the effective date is updated to fiscal year 2009. Appendix A is added to be effective for fiscal year 2009. The reference to medical administrator rates is removed. Information from fiscal year 2008 is removed.

In Section 310.220, subsection (b) is clarified to explain that positions excluded from a bargaining unit are assigned to a merit compensation salary range as indicated in Section 310.410. Information no longer in effect is removed. In subsection (d), a reference to red-circled rates is added. In a new subsection (e), the explanation of negotiated red-circled base salaries is added. When the negotiated rates of pay effective during fiscal year 2009 are available, peremptory amendments with the rates and reference to the bargaining units with the red-circled rates will be filed. Headings are added to all subsections for easier access to information.

Section 310.230 is repealed because the Conservation/Historic Preservation Worker title is assigned a merit compensation salary range in Section 310.410.

In Section 310.260, the information is clarified to reflect the current pay grade or salary range assignments of Trainee Program titles. Information no longer in effect is removed.

In Section 310.280, the designated rate of $132,000 annually effective July 1, 2008 for the Department of Human Services' Senior Public Service Administrator position, position number 40070-10-66-200-00-01, is added. The designated rate of $136,608 annually effective November 1, 2007 for the Department of Revenue's Senior Public Service Administrator position, position number 40070-25-60-000-00-01 (Administrator of the Illinois Gaming Board), is added. The designated rate is based on the Riverboat Gambling Act [230 ILCS 10/5(a)(9)]. The designated rate for the position no longer in effect is removed.

In Section 310.290, the out-of-state rate provisions are repealed. The provisions still applying to the positions allocated to the Public Service Administrator and Senior Public Service Administrator titles and assigned broad-banded merit compensation salary ranges are added to Section 310.495.

In Section 310.295, the foreign service rate provisions are repealed.
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In Section 310.410, the table no longer in effect is removed. The Revenue Tax Specialist Trainee title (title code 38575) is removed. The Department of Revenue does not anticipate making an emergency, provisional or temporary appointment to the trainee program title otherwise assigned to a bargaining unit. The merit compensation salary ranges assigned to the Executive II, Mental Health Program Administrator and Public Administration Intern titles are changed. The Bridge Tender, Child Welfare Administrative Case Reviewer, Conservation/Historic Preservation Worker, Maintenance Equipment Operator, Medical Administrator I option C, I option D, II option C, II option D, III, IV, and V, and Office Administrator III titles are assigned merit compensation salary ranges and added to the title table. The Highway Maintainer title code is corrected.

Section 310.415 is new and describes the process of assigning merit compensation salary ranges to emergency, provisional and temporary positions allocated to classifications otherwise represented by a bargaining unit and to classifications established as Trainee Programs.

In Section 310.450 subsection (b)(1), the employees in positions, which are allocated to Trainee Program (80 Ill. Adm. Code 302.170) classifications or exempt from Jurisdiction B (Merit and Fitness) of the Personnel Code, continually for 12 months and each subsequent 12 months in the same position are added to the employee's eligible for a merit compensation performance review and potentially for a merit compensation increase and/or bonus. The addition is based on the Jurisdiction C (Conditions of Employment) provision of the Personnel Code [20 ILCS 415] Section 8c(3) and the Jurisdiction A (Classification and Pay) provision in the Personnel Rules (80 Ill. Adm. Code 301) Sections 301.160 and 301.170. Information no longer in effect is removed.

In Section 310.495, the out-of-state rate provisions for the Public Services Administrator and Senior Public Service Administrator titles are added in subsection (f).

In Section 310.500, the definition of midpoint salary is removed.

In Section 310.Appendix A Table AA, newly approved NR-916 rates effective January 1, 2008 are added and the rates no longer in effect are removed.

In Section 310.Appendix B, salary grade information and rates no longer in effect are removed.
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Section 310.Appendix C is repealed because Medical Administrator titles are assigned to merit compensation salary ranges in Section 310.410.

In Section 310.Appendix D, the minimum rate of pay in the MS-01 salary range is raised to $1,264 per month, reflecting the change of the minimum wage effective July 1, 2008 in the Minimum Wage Law [820 ILCS 105/4(a)(1)] based on Public Act 94-1072. The titles affected by this change to the MS-01 salary range are: Clerical Trainee; Conservation/Historic Preservation worker; Office Occupations Trainee; Public Service Trainee; Student Intern; and Student Worker. The MC salary ranges no longer in effect are removed. The merit compensation salary range MS-40 is renumbered to MS-63 and MS merit compensation salary ranges of MS-60, MS-61, MS-62, MS-64, MS-65, MS-66 and MS-67 are added.

In Section 310.Appendix G, the Site Superintendent title is removed because the Civil Service Commission approved the abolishment of the title effective February 1, 2008. The information and salary ranges no longer in effect are removed.

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

   Mr. Jason Doggett, Manager
   Compensation Section
   Division of Technical Services and Agency Training and Development
   Bureau of Personnel
   Department of Central Management Services
   504 William G. Stratton Building
   Springfield IL  62706

   Telephone: 217/782-7964
   Fax: 217/524-4570
   CMS.PayPlan@Illinois.gov

17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

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ISEA Local #2002)

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<td>Professional Employees, AFSCME</td>
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
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SUBPART A: NARRATIVE

Section 310.40 Pay Schedules

The attached Negotiated Rates of Pay (Appendix A), Schedule of Salary Grades (Appendix B), Schedule of Rates (Subpart B), Medical Administrator Rates (Appendix C) and the Merit Compensation System (Subpart C) are hereby made a part of this Part. Each employee subject to this Part, except those whose rates of pay is determined under the Schedule of Rates (Subpart B) or the Merit Compensation System (Subpart C) of this Part, or Section 8(a) of the Personnel Code [20 ILCS 415/8a], shall be paid at a rate of pay or step in the appropriate salary grade in the Negotiated Rates of Pay (Appendix A) or Schedule of Salary Grades (Appendix B) for the class of position in which the employee is employed. During fiscal year 2008, the Schedule of Salary Grades (Appendix B) and the Schedule of Rates (Sections 310.290 — Out-of-State Rate and 310.295 — Foreign Service Rate) are effective July 1, 2007 through December 31, 2007. Effective January 1, 2008, the titles or positions within a title formerly assigned to the Schedule of Salary Grades and the Schedule of Rates (Sections 310.290 and 310.295) are assigned to the Merit Compensation System (Subpart C). The only exception is that the Data Processing Supervisor I and Office Administrator III titles remain assigned to the salary grade pay grade 11 and salary grade pay grade 11 remains in effect.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.45 Comparison of Pay Grades or Salary Ranges Assigned to Classifications
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a) What Classifications to Compare When an Employee Moves – The movement of an employee subject to the Personnel Code to a vacant position (subject to the Personnel Code) is between two positions. The employee moves from the former position to the targeted position. The targeted position may be the former position allocated to a different classification title (80 Ill. Adm. Code 320.80) or may be the former position assigned substantial additional responsibilities in the same broad-band title (Section 310.495(c)). The former and targeted positions have the same or different classification titles. The former position is in the former classification and the targeted title is in the targeted classification. The former and targeted classifications are used in the comparison when an employee moves.

b) Definitions of Employee Movements – When the former and targeted classification titles are the same, the employee movement is an interim assignment (80 Ill. Adm. Code 302.150(j)), a transfer (80 Ill. Adm. Code 302.400), geographical transfer (80 Ill. Adm. Code 302.430) or where in the broad-band classification title the targeted position has substantial additional responsibilities compared to the former position (Section 310.495(c)). When the former and targeted classification titles are different, the employee movement is an interim assignment (80 Ill. Adm. Code 302.150(j)), a transfer (80 Ill. Adm. Code 302.400), geographical transfer (80 Ill. Adm. Code 302.430), demotion (80 Ill. Adm. Code 302.470), voluntary reduction (80 Ill. Adm. Code 302.500), promotion (Sections 310.50 and 310.500), based on the position being allocated to another class (80 Ill. Adm. Code 301.20 and 301.41) or based on the positions in a class being reclassified (Sections 310.50 and 310.500).

c) What to Compare in Each Classification – Whether comparing former and targeted classifications, the pay grades or salary ranges assigned to the former and targeted classifications, or the maximum permissible salary or rate assigned to the former and targeted classifications, use the highest of the maximum base salaries in the regular pension formula pay grades or salary ranges assigned to the positions established inside the geographical limits of the State of Illinois for each classification. (Out-of-state rates in Section 310.495310.290 are never used in the comparison.)

d) What to Compare in Each Classification When Conditions in Subsection (c) Do Not Exist – If no regular pay formula pay grade or salary range exists for the classification, then identify the highest of the maximum base salaries in the alternative pension formula pay grades or salary ranges assigned to the positions established inside the geographical limits of the State of Illinois for the
classification. If only foreign service rate (Section 310.295) ranges exist for the classification, then identify the highest of the maximum base salaries in the regular pension formula foreign service rate salary ranges for the classification.

e) The Comparison Determines the Type of Employee Movement and Pay – Comparing the highest of the maximum base salaries set forth in subsection (c) or subsection (d) for each classification establishes whether the former classification is higher than, lower than or the same as the targeted classification. This information determines (or assists in determining) which type of employee movement in subsection (b) is occurring. From that determination, the pay treatment is set in following Sections of the Pay Plan.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.47 In-Hiring Rate

a) Request – An agency head may request in writing that the Director of Central Management Services approve an in-hiring rate. The rate is a Step or dollar amount depending on whether the classification title is assigned to a negotiated pay grade, salary grade pay grade, out-of-state rate, foreign service rate, merit compensation pay range, medical administrator rate or broad-band pay range. The rate may be for the classification title or limited within the classification title to the agency, facilities, counties or other criteria. The supporting justifications for the requested in-hiring rate and the limitations are included in the agency request. An effective date may be included in the request.

b) Review – The Director of Central Management Services shall review the supporting justifications, the turnover rate, length of vacancies, and the currently filled positions for the classification title, and the market starting rates for similar classes, and consult with other agencies using the classification title.

c) Approval – The Director of Central Management Services indicates in writing the approved in-hiring rate and effective date, which is either the date requested by the agency or the beginning of the next pay period after the approval.

d) Implementation – In the classification title or within the limitations of the classification title, an employee paid below the in-hiring rate receives the in-hiring rate on the approved effective date. The in-hiring rate remains in effect for any employee entering the title or the limits within the title until the title is
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abolished or an agency request to rescind the in-hiring rate is approved by the Director of Central Management Services.

e) Approved In-Hiring Rates –

<table>
<thead>
<tr>
<th>Title</th>
<th>Pay-Grade</th>
<th>In-Hiring-Rate</th>
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<tbody>
<tr>
<td>Accounting &amp; Fiscal Administration Career Trainee</td>
<td>RC-062-12</td>
<td>Step 3</td>
</tr>
<tr>
<td>Actuarial Examiner Trainee</td>
<td>RC-062-13</td>
<td>Step 4</td>
</tr>
<tr>
<td>Children &amp; Family Services Intern, Option 2</td>
<td>RC-062-15</td>
<td>Step 1b</td>
</tr>
<tr>
<td>Civil Engineer I</td>
<td>RC-062-15</td>
<td>Step 2</td>
</tr>
<tr>
<td>Civil Engineer II</td>
<td>RC-063-17</td>
<td>Step 1</td>
</tr>
<tr>
<td>Civil Engineer Trainee</td>
<td>NR-916</td>
<td>To minimum monthly rate for appointee with bachelor's degree in accredited civil engineering program, add $40/quarter work experience up to 8, add $60 if passed Engineering Intern exam, and add $40/quarter master's program up to 8</td>
</tr>
<tr>
<td>Commerce Commission Police Officer Trainee</td>
<td>SG-13</td>
<td>Step 2</td>
</tr>
<tr>
<td>Correctional Officer</td>
<td>RC-006-09</td>
<td>Step 2</td>
</tr>
<tr>
<td>Correctional Officer Trainee</td>
<td>RC-006-05</td>
<td>Step 4</td>
</tr>
<tr>
<td>Engineering Technician I</td>
<td>NR-916</td>
<td>See Note</td>
</tr>
<tr>
<td>Engineering Technician II</td>
<td>NR-916</td>
<td>See Note</td>
</tr>
<tr>
<td>Engineering Technician III</td>
<td>NR-916</td>
<td>See Note</td>
</tr>
<tr>
<td>Engineering Technician IV</td>
<td>NR-916</td>
<td>See Note</td>
</tr>
<tr>
<td>Environmental Engineer I</td>
<td>RC-063-15</td>
<td>Step 2</td>
</tr>
<tr>
<td>Environmental Engineer II</td>
<td>RC-063-17</td>
<td>Step 1</td>
</tr>
<tr>
<td>Environmental Protection Engineer I</td>
<td>RC-063-15</td>
<td>Step 5</td>
</tr>
<tr>
<td>Environmental Protection Engineer II</td>
<td>RC-063-17</td>
<td>Step 4</td>
</tr>
<tr>
<td>Financial Institutions Examiner Trainee</td>
<td>RC-062-13</td>
<td>Step 2</td>
</tr>
</tbody>
</table>

Effective until and including December 31, 2007
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Position</th>
<th>Code</th>
<th>Step Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forensic Scientist Trainee</td>
<td>RC-062-15</td>
<td>Step 2, and Step 3 if completed Forensic Science Residency Program at the U of I Chicago</td>
</tr>
<tr>
<td>Information Services Intern</td>
<td>RC-063-15</td>
<td>See Note</td>
</tr>
<tr>
<td>Information Services Specialist I</td>
<td>RC-063-17</td>
<td>Step 1a for Outside Cook County and Step 2 for Cook County</td>
</tr>
<tr>
<td>Insurance Company Financial Examiner Trainee</td>
<td>RC-062-13</td>
<td>Step 4</td>
</tr>
<tr>
<td>Internal Auditor Trainee</td>
<td>SG-12</td>
<td>Step 3</td>
</tr>
<tr>
<td>Meat &amp; Poultry Inspector Trainee</td>
<td>RC-033</td>
<td>Step 3 for Regions 1 and 6</td>
</tr>
<tr>
<td>Physician Specialist, Option C</td>
<td>RC-063-MD-C</td>
<td>Step 5 for Singer, McFarland, Zeller, Choate, Chester, Alton, Murray, and Mabley facilities</td>
</tr>
<tr>
<td>Physician Specialist, Option D</td>
<td>RC-063-MD-D</td>
<td>Step 5 for Singer, McFarland, Zeller, Choate, Chester, Alton, Murray, and Mabley facilities</td>
</tr>
<tr>
<td>Police Lieutenant</td>
<td>MC-09</td>
<td>$3,450</td>
</tr>
<tr>
<td>Products &amp; Standards Inspector Trainee</td>
<td>SG-12</td>
<td>Step 5 for Cook, Dupage, Lake, Kane, and Will counties; and Step 3 for all other counties</td>
</tr>
<tr>
<td>Revenue Auditor Trainee</td>
<td>RC-062-12</td>
<td>Step 5</td>
</tr>
<tr>
<td>(IL); RC-062-15 (CA or NJ); and RC-062-13 (states other than IL, CA, or NJ)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue Special Agent Trainee</td>
<td>RC-062-14</td>
<td>Step 2</td>
</tr>
<tr>
<td>Security Therapy Aide Trainee</td>
<td>RC-009-13</td>
<td>Step 5 for the Joliet Treatment and Detention Facility</td>
</tr>
<tr>
<td>State Mine Inspector</td>
<td>RC-062-19</td>
<td>Step 1</td>
</tr>
<tr>
<td>Telecommunicator</td>
<td>RC-014-12</td>
<td>Step 2 for District 2</td>
</tr>
</tbody>
</table>
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Telecommunicator Trainee RC-014-10 Step 3 for Kane County and Step 7 for Cook County
Terrorism Research Specialist Trainee RC-062-14 Step 2
Youth Supervisor Trainee RC-006-05 Step 3
Youth Supervisor II RC-006-09 Step 1

Effective January 1, 2008

<table>
<thead>
<tr>
<th>Title</th>
<th>Pay Grade or Range</th>
<th>In-Hiring Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting &amp; Fiscal Administration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Career Trainee</td>
<td>RC-062-12 Step 3</td>
<td></td>
</tr>
<tr>
<td>Actuarial Examiner Trainee</td>
<td>RC-062-13 Step 4</td>
<td></td>
</tr>
<tr>
<td>Children &amp; Family Services Intern, Option 2</td>
<td>RC-062-15 Step 1b</td>
<td></td>
</tr>
<tr>
<td>Civil Engineer I</td>
<td>RC-063-15 Step 2</td>
<td></td>
</tr>
<tr>
<td>Civil Engineer II</td>
<td>RC-063-17 Step 1</td>
<td>To minimum monthly rate for appointee with bachelor's degree in accredited civil engineering program, add $40/quarter work experience up to 8, add $60 if passed Engineering Intern exam, and add $40/quarter master's program up to 8</td>
</tr>
<tr>
<td>Civil Engineer Trainee</td>
<td>NR-916</td>
<td></td>
</tr>
</tbody>
</table>

Commerce Commission Police Officer Trainee MS-10 $2,943
Correctional Officer RC-006-09 Step 2
Correctional Officer Trainee RC-006-05 Step 4
Engineering Technician I NR-916 See Note
Engineering Technician II NR-916 See Note
Engineering Technician III NR-916 See Note
Engineering Technician IV NR-916 See Note
Environmental Engineer I RC-063-15 Step 2
Environmental Engineer II RC-063-17 Step 1
Environmental Protection Engineer I RC-063-15 Step 5
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Environmental Protection Engineer II RC-063-17 Step 4
Financial Institutions Examiner Trainee RC-062-13 Step 2
Forensic Scientist Trainee RC-062-15 Step 2, and Step 3 if completed Forensic Science Residency Program at the U of I-Chicago

Information Services Intern RC-063-15 See Note
Information Services Specialist I RC-063-17 Step 1a for Outside Cook County and Step 2 for Cook County

Information Services Specialist II RC-063-19 Step 1a for Cook County
Insurance Company Financial Examiner Trainee RC-062-13 Step 4
Internal Auditor Trainee MS-09 $2,854
Meat & Poultry Inspector Trainee RC-033 Step 3 for Regions 1 and 6 Step 5 for Singer, McFarland, Zeller, Choate, Chester, Alton, Murray, and Mabley facilities
Physician Specialist, Option C RC-063-MD-C Step 5 for Singer, McFarland, Zeller, Choate, Chester, Alton, Murray, and Mabley facilities

Physician Specialist, Option D RC-063-MD-D Step 5 for Singer, McFarland, Zeller, Choate, Chester, Alton, Murray, and Mabley facilities

Police Lieutenant MC-09 $3,450
Products & Standards Inspector Trainee MS-09 $3,057 for Cook, Dupage, Lake, Kane, and Will counties; and $2,854 for all other counties

Revenue Auditor Trainee RC-062-12 (IL); RC-062-15 (CA or NJ); and RC-062-13 (states other than IL, CA, or NJ) Step 5

Revenue Special Agent Trainee RC-062-14 Step 2
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Position</th>
<th>Code</th>
<th>Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security Therapy Aide Trainee</td>
<td>RC-009-13</td>
<td>Step 5 for the Joliet Treatment and Detention Facility</td>
</tr>
<tr>
<td>State Mine Inspector</td>
<td>RC-062-19</td>
<td>Step 1</td>
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<tr>
<td>Telecommunicator</td>
<td>RC-014-12</td>
<td>Step 2 for District 2</td>
</tr>
<tr>
<td>Telecommunicator Trainee</td>
<td>RC-014-10</td>
<td>Step 3 for Kane County and Step 7 for Cook County</td>
</tr>
<tr>
<td>Terrorism Research Specialist Trainee</td>
<td>RC-062-14</td>
<td>Step 2</td>
</tr>
<tr>
<td>Youth Supervisor Trainee</td>
<td>RC-006-05</td>
<td>Step 3</td>
</tr>
<tr>
<td>Youth Supervisor II</td>
<td>RC-006-09</td>
<td>Step 1</td>
</tr>
</tbody>
</table>

Note: The Engineering Technician series has the following in-hiring rates –

<table>
<thead>
<tr>
<th>Education Level</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of 2 years of college in civil engineering or job related technical/science curriculum (60 semester/90 quarter hours credit)</td>
<td>$2,435/$2,295</td>
</tr>
<tr>
<td>Completion of 3 years of college in areas other than civil engineering or job related technical/scientific curriculum (90 semester/135 quarter hours credit)</td>
<td>$2,340/$2,295</td>
</tr>
<tr>
<td>An Associate Degree from an accredited 2 year civil engineering technology program</td>
<td>$2,545/$2,400</td>
</tr>
<tr>
<td>Completion of 3 years of college courses in civil engineering or job related technical/scientific curriculum (90 semester/135 quarter hours credit)</td>
<td>$2,545/$2,400</td>
</tr>
<tr>
<td>Completion of 4 years of college courses in areas other than civil engineering or job related technical/scientific curriculum (120 semester/180 quarter hours credit)</td>
<td>$2,435/$2,295</td>
</tr>
<tr>
<td>Completion of 4 years of college in civil engineering or job related technical/scientific curriculum (120 semester/180 quarter hours credit includes appointees from unaccredited engineering programs and those who have not yet obtained a degree)</td>
<td>$2,650/$2,500</td>
</tr>
<tr>
<td>Bachelor of Science Degree from an accredited 4 year program in civil engineering technology, industrial technology, and construction technology</td>
<td>$3,005/$2,835</td>
</tr>
</tbody>
</table>

The Information Services Intern title has the following in-hiring rates –
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section 310.110 Implementation of Pay Plan Changes

The rates of pay for all employees occupying positions subject to the Schedule of Salary Grade Pay Grades shall be as set out in Appendix B, Schedule of Salary Grade Pay Grades – Monthly Rates of Pay. No title or position within a title is subject to the Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Appendix B) effective January 1, 2008. The only exception is that the Data Processing Supervisor I and Office Administrator III titles remain assigned to salary grade pay grade 11.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.130 Effective Date

This Pay Plan Narrative (Subpart A), Schedule of Rates (Subpart B), Merit Compensation System (Subpart C), Negotiated Rates of Pay (Appendix A), Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Appendix B), Medical Administrator Rates (Appendix C), Merit Compensation System Salary Schedule (Appendix D), and Broad-Band Pay Range Classes Salary Schedule (Appendix G) shall be effective for Fiscal Year 2009 except that, effective January 1, 2008, the Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Appendix B) and the Schedule of Rates (Sections 310.290 – Out of State Rate and 310.295 – Foreign Service Rate) are not in effect. The only exception is that the salary grade pay grade 11 to which the Data Processing Supervisor I and Office Administrator III titles remain assigned.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

SUBPART B: SCHEDULE OF RATES

Section 310.220 Negotiated Rate

a) Rates by Geographic Area, Agency or Agency Area – The rate of pay for a class
NOTICE OF ADOPTED AMENDMENTS

in any specific area or agency, or in a specific area for an agency, as established and approved by the Director of Central Management Services after having conducted negotiations for this purpose, or as certified as being correct and reported to the Director of Central Management Services by the Director of the Illinois Department of Labor for designated classifications.

b) Rates for Positions Excluded from Bargaining Unit Representation – An employee occupying a position in a class normally subject to contract, but whose position is excluded from the bargaining unit, shall be assigned to the Merit Compensation System (Subpart C) and receive the contract rate and other compensation items specified by the contract, unless the Director of Central Management Services has established another specific provision. Subsection (b) is suspended for non-union positions and employees. Effective January 1, 2008, the non-union positions and employees are assigned to the Merit Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D) based on the salary range assigned to the classification title in Section 310.410.

c) Rates for Higher Duties – As provided in certain collective bargaining agreements, an employee may be paid at an appropriate higher rate when assigned to perform the duties of a higher level position. Eligibility for and the amount of this pay will be as provided in the contract.

d) Promotion from Step 8 – Effective March 27, 2008, when an employee represented by the American Federation of State, County, and Municipal Employees (AFSCME) is promoted from Step 8, the employee shall be paid as provided in Section 310.80(d)(1)(A)(ii).

e) To Locate Rates – The negotiated rates of pay for classifications in specified operating agencies, in specified agency facilities or with specified duties shall be as indicated in Appendix A, unless the rates are red-circled of this Part.

f) Red-Circled Rates – Red-circled rates are the negotiated or arbitrator assigned base salaries not otherwise on a step in the pay grade assigned to a classification or in the Pay Plan. The base salaries may be above the pay grade's maximum base salary or between two base salaries on consecutive steps. An employee who takes a position in a Trainee Program (80 Ill. Adm. Code 302.170) classification that represents a reduction when comparing classifications (Section 310.45) shall have the base salary red-circled at the amount of the former classification. If
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

through negotiation of a classification assignment to a pay grade where the base salary exceeds Step 8, the base salary shall be red-circled at its current rate and may receive contractual adjustments.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.230 Part-Time Daily or Hourly Special Services Rate (Repealed)

The rate of pay as approved by the Director of Central Management Services for persons employed on a part-time basis requiring irregular hours of work and not listed below shall be calculated using the conversion method in Section 310.240.

<table>
<thead>
<tr>
<th>Position</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservation/Historic Preservation Worker</td>
<td>7.50 to 9.00 (hourly)</td>
</tr>
</tbody>
</table>

(Source: Repealed at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.260 Trainee Rate

Rates of pay for employees working in Trainee classes or in other classes pursuant to a Trainee Program (80 Ill. Adm. Code 302.170) shall conform to those set forth in negotiated the applicable Trainee Program, to salary grade pay grades approved for or pay grades within Negotiated Rates of Pay (Appendix A) unless the rate is red-circled (Section 310.220(e)) or salary ranges negotiated for such training classes. Merit compensation system Trainee Program rates, which are recommended by the agency head where the Trainee Program is established, will normally be less than the entrance rate for the class for which training is being conducted unless otherwise approved by the Director of Central Management Services. (Effective July 1, 2003, increases are suspended for non-union positions and employees.) Effective December 2, 2005, non-bargaining-unit trainee rates receive a 4% adjustment increase and the base salary for each non-bargaining-unit employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date. Effective January 1, 2007, salary grade trainee rates receive a 3% adjustment increase and the base salary for each salary grade employee receives a 3% adjustment increase without change in the employee's creditable service date. Effective January 1, 2008, the Trainee Programs assigned to non-bargaining-unit rates are assigned to the Merit Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D). The process of assigning merit
Compensation salary ranges to Trainee Program classifications is in Section 310.415. The Trainee Program classifications are:

<table>
<thead>
<tr>
<th>Title</th>
<th>Code</th>
<th>Negotiated Pay Grade</th>
<th>Merit Compensation Salary Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Technician Trainee</td>
<td>00118</td>
<td>None</td>
<td>MS-04</td>
</tr>
<tr>
<td>Accounting and Fiscal Administration Career Trainee</td>
<td>00140</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Actuarial Examiner Trainee</td>
<td>00196</td>
<td>RC-062-13</td>
<td>None</td>
</tr>
<tr>
<td>Administrative Services Worker Trainee</td>
<td>00600</td>
<td>RC-014-02</td>
<td>None</td>
</tr>
<tr>
<td>Animal and Animal Products Investigator Trainee</td>
<td>01075</td>
<td>None</td>
<td>MS-09</td>
</tr>
<tr>
<td>Appraisal Specialist Trainee</td>
<td>01255</td>
<td>None</td>
<td>MS-09</td>
</tr>
<tr>
<td>Arson Investigations Trainee</td>
<td>01485</td>
<td>None</td>
<td>MS-12</td>
</tr>
<tr>
<td>Behavioral Analyst Associate</td>
<td>04355</td>
<td>RC-062-15</td>
<td>None</td>
</tr>
<tr>
<td>Children and Family Service Intern, Option 1</td>
<td>07241</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Children and Family Service Intern, Option 2</td>
<td>07242</td>
<td>RC-062-15</td>
<td>None</td>
</tr>
<tr>
<td>Civil Engineer Trainee</td>
<td>07607</td>
<td>NR-916</td>
<td>None</td>
</tr>
<tr>
<td>Clerical Trainee</td>
<td>08050</td>
<td>RC-014-TR</td>
<td>MS-01</td>
</tr>
<tr>
<td>Clinical Laboratory Technologist Trainee</td>
<td>08229</td>
<td>RC-062-14</td>
<td>None</td>
</tr>
<tr>
<td>Clinical Psychology Associate</td>
<td>08255</td>
<td>RC-063-18</td>
<td>None</td>
</tr>
<tr>
<td>Commerce Commission Police Officer Trainee</td>
<td>08455</td>
<td>None</td>
<td>MS-10</td>
</tr>
<tr>
<td>Conservation Police Officer Trainee</td>
<td>09345</td>
<td>RC-110</td>
<td>None</td>
</tr>
<tr>
<td>Correctional Officer Trainee</td>
<td>09676</td>
<td>RC-006-05</td>
<td>None</td>
</tr>
<tr>
<td>Criminal Justice Specialist Trainee</td>
<td>10236</td>
<td>RC-062-13</td>
<td>None</td>
</tr>
<tr>
<td>Data Processing Operator Trainee</td>
<td>11428</td>
<td>RC-014-02</td>
<td>None</td>
</tr>
<tr>
<td>Data Processing Technician Trainee</td>
<td>11443</td>
<td>RC-028-06</td>
<td>None</td>
</tr>
<tr>
<td>Disability Claims Adjudicator Trainee</td>
<td>12539</td>
<td>RC-062-13</td>
<td>None</td>
</tr>
</tbody>
</table>
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Position</th>
<th>Code</th>
<th>Region</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Development Representative Trainee</td>
<td>12939</td>
<td>None</td>
<td>MS-10</td>
</tr>
<tr>
<td>Energy and Natural Resources Specialist Trainee</td>
<td>13715</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Financial Institutions Examiner Trainee</td>
<td>14978</td>
<td>RC-062-13</td>
<td>None</td>
</tr>
<tr>
<td>Fingerprint Technician Trainee</td>
<td>15209</td>
<td>None</td>
<td>MS-05</td>
</tr>
<tr>
<td>Fire Prevention Inspector Trainee</td>
<td>15320</td>
<td>RC-029-12</td>
<td>None</td>
</tr>
<tr>
<td>Forensic Scientist Trainee</td>
<td>15897</td>
<td>RC-062-15</td>
<td>None</td>
</tr>
<tr>
<td>Geographic Information Trainee</td>
<td>17276</td>
<td>RC-063-15</td>
<td>None</td>
</tr>
<tr>
<td>Governmental Career Trainee</td>
<td>17325</td>
<td>None</td>
<td>MS-09</td>
</tr>
<tr>
<td>Graduate Pharmacist</td>
<td>17345</td>
<td>RC-063-20</td>
<td>None</td>
</tr>
<tr>
<td>Hearing and Speech Associate</td>
<td>18231</td>
<td>RC-063-18</td>
<td>None</td>
</tr>
<tr>
<td>Human Resources Trainee</td>
<td>19694</td>
<td>None</td>
<td>MS-04</td>
</tr>
<tr>
<td>Human Services Grants Coordinator Trainee</td>
<td>19796</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Industrial Services Consultant Trainee</td>
<td>21125</td>
<td>RC-062-11</td>
<td>None</td>
</tr>
<tr>
<td>Industrial Services Hygienist Trainee</td>
<td>21133</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Information Services Intern</td>
<td>21160</td>
<td>RC-063-15</td>
<td>MS-12</td>
</tr>
<tr>
<td>Insurance Analyst Trainee</td>
<td>21566</td>
<td>RC-014-07</td>
<td>None</td>
</tr>
<tr>
<td>Insurance Company Financial Examiner Trainee</td>
<td>21610</td>
<td>RC-062-13</td>
<td>None</td>
</tr>
<tr>
<td>Internal Auditor Trainee</td>
<td>21726</td>
<td>None</td>
<td>MS-09</td>
</tr>
<tr>
<td>Juvenile Justice Specialist Intern</td>
<td>21976</td>
<td>Pending</td>
<td>None</td>
</tr>
<tr>
<td>Liability Claims Adjuster Trainee</td>
<td>23375</td>
<td>None</td>
<td>MS-09</td>
</tr>
<tr>
<td>Life Sciences Career Trainee</td>
<td>23600</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Management Operations Analyst Trainee</td>
<td>25545</td>
<td>None</td>
<td>MS-12</td>
</tr>
<tr>
<td>Manpower Planner Trainee</td>
<td>25597</td>
<td>RC-062-12</td>
<td>None</td>
</tr>
<tr>
<td>Meat and Poultry Inspector Trainee</td>
<td>26075</td>
<td>RC-033</td>
<td>None</td>
</tr>
<tr>
<td>Mental Health Administrator Trainee</td>
<td>26817</td>
<td>None</td>
<td>MS-12</td>
</tr>
</tbody>
</table>
Mental Health Specialist Trainee
26928   RC-062-11   None
Mental Health Technician Trainee I
27021   RC-009-01   None
Methods and Procedures Career Associate Trainee
27137   RC-062-09   None
Office Occupations Trainee
30075   None   MS-01
Police Officer Trainee
32985   None   MS-06
Polygraph Examiner Trainee
33005   None   MS-12
Products and Standards Inspector Trainee
34605   None   MS-09
Program Integrity Auditor Trainee
34635   RC-062-12   None
Psychologist Associate
35626   RC-063-15   None
Psychologist Intern
35660   None   MS-15
Public Administration Intern
35700   None   MS-11
Public Aid Investigator Trainee
35874   RC-062-14   None
Public Health Program Specialist Trainee
36615   RC-062-12   None
Public Safety Inspector Trainee
37010   RC-062-10   None
Public Service Trainee
37025   None   MS-01
Rehabilitation Counselor Trainee
38159   RC-062-15   None
Rehabilitation/Mobility Instructor Trainee
38167   RC-063-15   None
Research Fellow, Option B
38211   None   MS-19
Resident Physician
38270   None   MS-15
Residential Care Worker Trainee
38279   RC-009-11   None
Revenue Auditor Trainee
38375   RC-062-12   None
Revenue Collection Officer Trainee
38405   RC-062-12   None
Revenue Special Agent Trainee
38565   RC-062-14   None
Revenue Tax Specialist Trainee
38575   RC-062-10   None
Security Therapy Aide Trainee
39905   RC-009-13   None
NOTICE OF ADOPTED AMENDMENTS

Seed Analyst Trainee 39953 None MS-07
Social Service Aide Trainee 41285 RC-006-01 RC-009-02 None
Social Services Career Trainee 41320 RC-062-12 None
Social Worker Intern 41430 None MS-15
Student Intern 43190 None MS-15
Student Worker 43200 None MS-01
Telecommunications Systems Technician Trainee 45314 None MS-05
Telecommunicator Trainee 45325 RC-014-10 None
Terrorism Research Specialist Trainee 45375 RC-062-14 None
Weatherization Specialist Trainee 49105 RC-062-12 None

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.280 Designated Rate

a) Requirements – The rate of pay for a specific position or class of positions excluded from the other requirements of this Pay Plan shall be only as designated by the Governor. A designated rate is the fixed rate of pay assigned usually to one position within a position classification. The fixed rate is above the maximum of the pay grade or salary range assigned to the position classification. The fixed rate is the value the employing agency determines for the uniquely combined position and employee or the candidate recruited to be the employee. A designated rate may be assigned to a position classification and, therefore, all positions within the position classification. The establishment of or change to a designated rate requires a request from the head of the employing agency to the Director of Central Management Services.

b) Request from the Head of the Employing Agency – The request from the employing agency head shall explain the unique nature of the employee's education and experience combined with the position's scope, responsibility, and reporting that warrant the requested designated rate, how the requested designated rate was determined, and the requested effective date. The employing agency shall attach to the request the current position description (CMS-104) and the
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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candidate's or employee's current State employment or promotional employment application (CMS-100 or CMS-100B).

c) Review and Approval – The Director of Central Management Services shall review the requested designated rate by comparing the value given to other positions and employees in the employing agency, the State, and other states when available. Following the review, the Director of Central Management Services shall seek the Governor's approval for the designated rate and its effective date.

d) Employee Payment – When the rate is approved, this Section shall be amended to include the approved designated rate. Once amended, the employing agency shall pay the employee the designated rate retroactively to the effective date approved by the Governor.

e) Annual Designated Rates by Employing Agency –

   | Department of Human Services                      |
   | Senior Public Service Administrator               | Annual Salary |
   | (Pos. No. 40070-10-66-200-00-01)                   | 132,000       |

   | Department of Public Health                        |
   | Senior Public Service Administrator               | Annual Salary |
   | (Pos. No. 40070-20-80-000-00-81)                   | 139,364       |

   | Department of Revenue                              |
   | Senior Public Service Administrator               | Annual Salary |
   | (Pos. No. 40070-25-60-000-00-01)                   | 136,608       |

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.290 Out-of-State Rate (Repealed)

   a) Requirements – The out-of-state rate is the rate of pay for employees not subject to Section 310.220 but occupying positions in the classification titles listed in subsection (d) that require payment in accordance with the economic conditions.
of another state. The employee shall reside in the state where the position is assigned.

b) Adjustments and Bonuses

1) Approval — The Director of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

2) Adjustments Effective December 2, 2005 — Effective December 2, 2005, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date.

3) Adjustments Effective January 1, 2007 — Effective January 1, 2007, the base pay for each employee in positions assigned to and receiving out-of-state rates where the classification's positions are otherwise assigned to a bargaining unit receives a 3% adjustment increase without change in the employee's creditable service date.

4) Eligibility for Annual Merit Increases and Bonuses — Employees in positions assigned to and receiving out-of-state rates where the classification's positions are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidelines are in Sections 310.450 and 310.540, respectively.

5) Suspension — Effective July 1, 2003 through and including December 31, 2006, adjustments except those effective December 2, 2005 and January 1, 2007 were suspended for non-union positions and employees. The suspension of adjustments remains in effect for employees in positions assigned to and receiving out-of-state rates where the classification's positions are otherwise assigned to a bargaining unit.

c) Out-Of-State Rate Calculation — Ranges assigned to states other than California and New Jersey are 15% above the ranges assigned to in-state positions (except when those in-state positions are assigned to bargaining unit rates) and are listed
NOTICE OF ADOPTED AMENDMENTS

in subsection (d). Ranges assigned to California and New Jersey are 30% above the ranges assigned to in-state positions (except when those in-state positions are assigned to bargaining unit rates) and are listed in subsection (d).

d) Minimum and Maximum Out-of-State Rates in Ranges by Classification Title—Effective January 1, 2008, the out-of-state positions assigned to non-bargaining unit rates are assigned to the Merit Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D), except for Executive II, Public Service Administrator and Senior Public Service Administrator positions.

<table>
<thead>
<tr>
<th>Title</th>
<th>Ranges December 2, 2005</th>
<th>January 1, 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>minimum</td>
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<tr>
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<tr>
<td>(States Other Than California and New</td>
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<tr>
<td>(CA, NJ)</td>
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<td>4630</td>
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<td>(CA, NJ)</td>
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<tr>
<td>(States Other Than California and New</td>
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<td>3327</td>
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<tr>
<td>(CA, NJ)</td>
<td>2786</td>
<td>3761</td>
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<tr>
<td>Public Service Administrator</td>
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</table>
NUMERICAL DESIGNATION?

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(States Other Than California and New Jersey)

Revenue Tax Specialist I

(States Other Than California and New Jersey) 3583 7843 3583 9176
(CA, NJ) 4051 8866 4051 10373

Revenue Tax Specialist Trainee

(States Other Than California and New Jersey) 2751 3803 2834 3917
(CA, NJ) 3110 4299 3203 4428

Senior Public Service Administrator

(States Other Than California and New Jersey) 4939 11607 4939 11607
(CA, NJ) 5584 13121 5584 13121

(Source: Repealed at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.295 Foreign Service Rate (Repealed)

a) Requirements—The foreign service rate is the rate of pay for employees not subject to Section 310.220 but occupying positions in the classification titles listed in subsection (d) that require payment in accordance with the economic conditions of a foreign country. The employee shall reside in the foreign country where the position is assigned.

b) Adjustments—

1) Approval—The Director of Central Management Services will, before approving an adjustment to a foreign service rate, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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2) Adjustments Effective December 2, 2005—Effective December 2, 2005, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date.

3) Adjustments Effective January 1, 2007—Effective January 1, 2007, the base pay for each employee in positions assigned to and receiving foreign service rates where the classification's positions are otherwise assigned to a bargaining unit receives a 3% adjustment increase without change in the employee's creditable service date.

4) Eligibility for Annual Merit Increases and Bonuses—Employees in positions assigned to and receiving foreign service rates where the classification's positions are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively.

5) Suspension—Effective July 1, 2003 through and including December 31, 2006, adjustments except those effective December 2, 2005 and January 1, 2007 were suspended for non-union positions and employees. The suspension of adjustments remains in effect for employees in positions assigned to and receiving foreign service rates where the classification's positions are otherwise assigned to a bargaining unit.

e) Differentials—For foreign service rates listed in subsection (d), a differential shall be made once a month to the base salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate.

d) Minimum and Maximum Foreign Service Rates in Ranges by Classification Title—Effective January 1, 2008, the foreign service rate positions assigned to non-bargaining-unit rates are assigned to the Merit Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D).

<table>
<thead>
<tr>
<th>Ranges</th>
<th>December 2, 2005</th>
<th>January 1, 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
<th>Salary Plan</th>
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<tbody>
<tr>
<td>Foreign Service Economic Development Executive I</td>
<td>4002</td>
<td>7365</td>
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<tr>
<td>Foreign Service Economic Development Executive II</td>
<td>5426</td>
<td>9654</td>
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<tr>
<td>Foreign Service Economic Development Representative</td>
<td>3400</td>
<td>6130</td>
</tr>
<tr>
<td>Office Assistant (Foreign Service)</td>
<td>2256</td>
<td>2976</td>
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</table>

(Source: Repealed at 32 Ill. Reg. 9881, effective July 1, 2008)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.410 Jurisdiction

The Merit Compensation System shall apply to all classes of positions designated below, Medical Administrator classes in Appendix C, and Broad-Band classes in Appendix G. In addition, the classes are listed in the ALPHABETIC INDEX OF POSITION TITLES. Also see Section 310.495 for the application of the Merit Compensation System for those Broad-Band titles listed with their salary ranges in Appendix G.

Effective until and including December 31, 2007

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
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<tbody>
<tr>
<td>Accountant Supervisor</td>
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<td>MC-05</td>
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<tr>
<td>Activity Therapist Supervisor</td>
<td>00163</td>
<td>MC-07</td>
</tr>
<tr>
<td>Actuary III</td>
<td>00203</td>
<td>MC-16</td>
</tr>
<tr>
<td>Administrative Assistant I</td>
<td>00501</td>
<td>MC-04</td>
</tr>
<tr>
<td>Administrative Assistant II</td>
<td>00502</td>
<td>MC-06</td>
</tr>
<tr>
<td>Agricultural Marketing Representative</td>
<td>00810</td>
<td>MC-05</td>
</tr>
<tr>
<td>Assistant Automotive Shop Supervisor</td>
<td>01565</td>
<td>MC-03</td>
</tr>
<tr>
<td>Automotive Shop Supervisor</td>
<td>02749</td>
<td>MC-07</td>
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<tr>
<td>Boat Safety Inspection Supervisor</td>
<td>04850</td>
<td>MC-06</td>
</tr>
<tr>
<td>Building Construction Inspector I</td>
<td>05541</td>
<td>MC-04</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

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<tr>
<th>Position</th>
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<th>Grade</th>
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<tr>
<td>Business Manager</td>
<td>05815</td>
<td>MC-05</td>
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<tr>
<td>Commerce Commission Police Sergeant</td>
<td>08457</td>
<td>MC-07</td>
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<tr>
<td>Corrections Leisure Activities Specialist III</td>
<td>09813</td>
<td>MC-06</td>
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<tr>
<td>Corrections Leisure Activities Specialist IV</td>
<td>09814</td>
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<tr>
<td>Corrections Vocational School Supervisor</td>
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<td>MC-05</td>
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<tr>
<td>Court Reporter Supervisor</td>
<td>09903</td>
<td>MC-08</td>
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<tr>
<td>Data Processing Supervisor II</td>
<td>11436</td>
<td>MC-04</td>
</tr>
<tr>
<td>Data Processing Supervisor III</td>
<td>11437</td>
<td>MC-07</td>
</tr>
<tr>
<td>Dietary Manager I</td>
<td>12501</td>
<td>MC-03</td>
</tr>
<tr>
<td>Dietary Manager II</td>
<td>12502</td>
<td>MC-05</td>
</tr>
<tr>
<td>Disability Claims Analyst</td>
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<tr>
<td>Electrical Engineer</td>
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<tr>
<td>Employment Security Field Office Supervisor</td>
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<td>Engineering Technician IV</td>
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<td>Executive I</td>
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<td>Executive II</td>
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</tr>
<tr>
<td>Executive Secretary II</td>
<td>14032</td>
<td>MC-01</td>
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<tr>
<td>Executive Secretary III</td>
<td>14033</td>
<td>MC-02</td>
</tr>
<tr>
<td>Facility Fire Chief</td>
<td>14433</td>
<td>MC-02</td>
</tr>
<tr>
<td>Guard Supervisor</td>
<td>17685</td>
<td>MC-01</td>
</tr>
<tr>
<td>Guardianship Supervisor</td>
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<td>MC-07</td>
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<td>Highway Construction Supervisor I</td>
<td>18525</td>
<td>MC-07</td>
</tr>
<tr>
<td>Highway Construction Supervisor II</td>
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<td>MC-09</td>
</tr>
<tr>
<td>Historical Library Chief of Acquisitions</td>
<td>18987</td>
<td>MC-06</td>
</tr>
<tr>
<td>Human Rights Mediator</td>
<td>19771</td>
<td>MC-05</td>
</tr>
<tr>
<td>Human Services Casework Manager</td>
<td>19788</td>
<td>MC-07</td>
</tr>
<tr>
<td>Internal Auditor I</td>
<td>21721</td>
<td>MC-05</td>
</tr>
<tr>
<td>Internal Security Investigator I</td>
<td>21731</td>
<td>MC-04</td>
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<td>Internal Security Investigator II</td>
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<td>International Marketing Representative I</td>
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<td>KidCare Supervisor</td>
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<td>Laundry Manager I</td>
<td>23191</td>
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<tr>
<td>Librarian II</td>
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<tr>
<td>Lottery Regional Coordinator</td>
<td>24504</td>
<td>MC-07</td>
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<tr>
<td>Management Operations Analyst I</td>
<td>25541</td>
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</tr>
<tr>
<td>Manuscripts Manager</td>
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</table>
## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

### NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Position</th>
<th>Code</th>
<th>Location</th>
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<tbody>
<tr>
<td>Mental Health Administrator I</td>
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<tr>
<td>Mental Health Administrator II</td>
<td>26812</td>
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<td>Mental Health Program Administrator</td>
<td>26908</td>
<td>MC-20</td>
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<tr>
<td>Methods and Procedures Advisor III</td>
<td>27133</td>
<td>MC-07</td>
</tr>
<tr>
<td>Office Administrator IV</td>
<td>29994</td>
<td>MC-02</td>
</tr>
<tr>
<td>Office Administrator V</td>
<td>29995</td>
<td>MC-03</td>
</tr>
<tr>
<td>Plumbing Consultant</td>
<td>32910</td>
<td>MC-09</td>
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<tr>
<td>Police Lieutenant</td>
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<td>MC-09</td>
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<tr>
<td>Private Secretary I</td>
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<td>MC-02</td>
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<td>Private Secretary II</td>
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<tr>
<td>Public Aid Family Support Specialist II</td>
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<td>Public Aid Staff Development Specialist III</td>
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<td>Public Health Program Specialist III</td>
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<td>Radiologic Technologist Chief</td>
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<td>Rehabilitation Workshop Supervisor III</td>
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<td>State Mine Inspector At-Large</td>
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<td>Storekeeper III</td>
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Effective January 1, 2008

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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<td>State Mine Inspector-At-Large</td>
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<td>Technical Advisor III</td>
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<td>Utility Engineer II</td>
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<tr>
<td>Vehicle Emissions Compliance Supervisor</td>
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<tr>
<td>Veterans Nursing Assistant – Certified</td>
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<tr>
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**NOTE:** Effective January 1, 2008, the merit compensation grade 12 in the Personnel Code [20 ILCS 415/8b.18(a) and (b) and 8b.19(a) and (b)] that formerly was indicated by MC-12 is MS-32.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
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Section 310.415  Merit Compensation Salary Range Assignments

a) Emergency, Temporary or Provisional Positions – When a position is allocated to a title only assigned to a bargaining unit pay grade and the agency is to appoint an employee to the position on an Emergency (80 Ill. Adm. Code 302.150(b)), Temporary (80 Ill. Adm. Code 302.150(c)) or Provisional (80 Ill. Adm. Code 302.150(d)) basis, a merit compensation salary range to be used for the position shall be assigned to the title as approved by the Director of Central Management Services. The approval of the merit compensation salary range assignment shall be after comparing the highest maximum base salary within the bargaining unit pay grade assigned the title with the maximum base salary in the merit compensation salary range that is not more than the highest maximum base salary within the bargaining unit pay grade and after considering the merit compensation salary ranges assigned to other titles in the same classification series and the merit compensation salary ranges assigned to other titles assigned the same bargaining unit pay grade. The titles and their merit compensation salary range assignments from the previous and anticipated fiscal years shall be listed in the Section 310.410 proposed amendments to the Pay Plan for adoption at the beginning of each fiscal year.

b) Trainee Program Titles – When a classification is established as a Trainee Program (80 Ill. Adm. Code 302.170), the merit compensation salary range assigned to the Trainee Program title shall be approved by the Director of Central Management Services. The approval shall be based on the recommendation of the agency head where the Trainee Program is established, comparison of the salary ranges assigned to other Trainee Program titles, and the maximum base salary in the recommended merit compensation salary range normally being less than the in-hiring rate or the minimum base salary of the targeted classification title for which training is being conducted.

(Source: Added at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.450  Procedures for Determining Annual Merit Increases and Bonuses

a) Definitions –

1) Annual Merit Increase – An annual merit increase is an in-range salary adjustment for demonstrated performance.
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were suspended effective July 1, 2003 and are restored effective January 1, 2007.

2) Annual Merit Bonus – An annual merit bonus is a percentage of the employee's annualized base salary that is paid once for demonstrated performance and separately from the base salary. The annual merit bonuses are established effective January 1, 2007.

b) Eligibility Conditions – Eligibility for an annual merit increase and bonus shall be determined by the following conditions:

1) 12 Months Creditable Service or from the Last Officially Scheduled Performance Review and Performance Review Discussion – Each employee will be eligible for a performance review: after attaining 12 months creditable service if new to the position; if continually in the one position for longer than 12 months from the last officially scheduled performance review (80 Ill. Adm. Code 302.270(d)); if continually in the one Trainee Program (80 Ill. Adm. Code 302.170) position for 12 months and each subsequent 12 months in the same position; if continually in the one position which is Personnel Code [20 ILCS 415] Section 4(d) exempt or otherwise partially, Jurisdiction B, exempt from the Personnel Code and each subsequent 12 months in the same position; if the combined time in the position and in a completed interim assignment is longer than 12 months from the last officially scheduled performance review; or if in interim assignment and the employee's creditable service date is 12 months or more ago, the employee shall return from a leave to serve in interim assignment for the employee's Performance Review and discussion. The employee's immediate supervisor shall prepare a Merit Compensation and Performance System form prior to the Performance Review Date or if the employee just returned from a leave to serve in interim assignment for the purpose of receiving the Performance Review, the employee's immediate supervisor shall prepare a Merit Compensation and Performance System form on the date the employee returned with input from the employee's immediate supervisor while in interim assignment. The employee's immediate supervisor shall discuss the results with the employee.

2) Guidechart Category Amount, Salary Range Maximum in Relation to Base Salary Increase and Current Base Salary –
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A) Annual Merit Increase – Should the performance review result in the employee not being eligible for an annual merit increase due to provisions of Section 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued. (Interim Assignment Pay shall never be used to determine eligibility for an annual merit increase.)

B) Annual Merit Bonus – Should the performance review result in the employee not being eligible for an annual merit bonus due to provisions of Section 310.450(d), the employee will not be eligible for an annual merit bonus until 12 months of additional creditable service has been accrued. (Interim Assignment Pay shall never be used to determine eligibility for an annual merit bonus.)

c) Immediate Supervisor Determination of Performance Category – Based upon the results of the performance review, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase and bonus.

d) Amount Restrictions – The amount of an annual merit increase and bonus recommendation shall be determined by use of the Merit Increase and Bonus Guidechart of Section 310.540 if the employee's performance review has on the Performance Review Date on or after January 1, 2007 been evaluated at a Category 3 or higher level. An employee whose performance review has on the Performance Review Date been evaluated at Category 4 on or after January 1, 2007 or at any category prior to January 1, 2007 shall not receive an increase in the present base salary or a bonus. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position. (Interim Assignment Pay shall never be used to determine an annual merit increase or bonus.)

e) Immediate Supervisor Indication of Eligibility and Amount – The employee's immediate supervisor shall prepare a Performance Certification and Merit Increase Recommendation form indicating whether or not the employee is eligible for an annual merit increase and bonus and the amounts thereof.
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f) Review and Approval – The employee's immediate supervisor shall forward the completed Merit Compensation and Performance System and Performance Certification and Merit Increase Recommendation forms to the agency head or a designated authority for review and approval.

g) Effective Date and New Creditable Service Date – The annual merit increase and bonus shall become effective the first day of the month in which the employee's Performance Review Date occurs or July 1, 2007 if the employee in interim assignment became eligible for the Performance Review on July 1, 2007. The employee's new creditable service date shall be the first day of the month in which the employee's Performance Review Date occurred or would have occurred if the employee had not been in interim assignment on that date.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)

Section 310.495 Broad-Band Pay Range Classes

Broad-band pay range classes shall be covered by all provisions of the Merit Compensation System except for the provisions identified in the following subsections:

a) Salary Range – The salary range for broad-band classes shall be as set out in Appendix G.

b) Entrance Base Salary –

1) When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the salary range.

2) The salary assigned an employee shall take into account the duties, education, training and experience of the employee to assure reasonable pay equity among employees in the same class.

3) If a candidate possesses directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in the candidate's CMS employment application.
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(CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.

c) Salary Adjustment for Substantial Additional Duties and Responsibilities within the Same Position or for Transfer to Another Position with Substantial Additional Duties and Responsibilities in the Same Title – An upward salary adjustment that is not more than 10% above the employee's current base salary in a broad-band position classification may be made by the employing agency where the employee's position has been given substantial additional duties and responsibilities but will remain in the same classification or where the employee transfers to another position with substantial additional duties and responsibilities in the same broad-band class. An upward salary adjustment for substantial additional duties and responsibilities that is more than 10% above the employee's current base salary may be given where the substantial additional duties and responsibilities are documented on an updated position description (CMS-104) and are reflected on the organization chart, and where the employing agency received the required prior approval from the Director of Central Management Services. The salary adjustment shall not change the creditable service date.

d) Movement between Salary Systems – Salary treatment on movement of an employee between one position in the broad-band class series and another position outside of the broad-band class series will be as recommended by the employing agency and approved by the Director of Central Management Services.

e) Salary Treatment upon Initial Placement of Positions in Other Occupational Broad-Band Classes – For the purpose of establishing salary treatment upon initial placement of positions, it is necessary to determine the "lowest corresponding Merit Compensation grade." The Merit Compensation range with a minimum salary closest to, but not lower than, that of the broad-band range minimum is known as the "lowest corresponding Merit Compensation grade."

1) The incumbent of a position with a current salary range maximum equal to or greater than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with no
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change in salary.

2) The incumbent of a position with a current salary range maximum less than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with a 5% increase in current base salary. However, in no event shall the resulting salary be lower than the minimum or higher than the maximum rate of the new salary range. The creditable service date of an employee will not be changed unless an increase of 10% or greater is provided to move the employee to the minimum of the new range.

f) Out-of-State Adjustment for Positions allocated to Broad-banded Titles, Not Represented by a Bargaining Unit –

1) Requirements – The out-of-state rate is the base salary for an employee appointed to a position not subject to Section 310.220 but subject to broad-banded Merit Compensation classification titles listed in subsection (f)(4) that require payment in accordance with the economic conditions of another state. The employee shall reside in the state where the position is assigned.

2) Approval – The Director of Central Management Services shall, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

3) Calculation – Ranges assigned to states other than Illinois, California and New Jersey are 15% above the ranges assigned to in-state positions and are listed in subsection (f)(4). Ranges assigned to California and New Jersey are 30% above the ranges assigned to in-state positions and are listed in subsection (f)(4).

4) Minimum and Maximum Out-of-State Rates in Ranges by Classification Title –

<table>
<thead>
<tr>
<th>Title</th>
<th>Out-Of State Ranges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Service Administrator, Option 1</td>
<td></td>
</tr>
</tbody>
</table>
Section 310.500 Definitions

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" – A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480.

"Base Salary" – The dollar amount of pay of an employee as determined under the provisions of the Merit Compensation System. Base salary does not include commission, incentive pay, bilingual pay, longevity pay, overtime pay, shift differential pay or deductions for time not worked.

"Bilingual Pay" – The dollar amount per month, or percentage of the employee's monthly base salary, paid in addition to the employee's base salary when the individual position held by the employee has a job description that requires the use of sign language, Braille, or another second language (e.g., Spanish), or that requires the employee to be bilingual.

"Creditable Service" – All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-range or promotional salary increase. Reevaluations (Sections 310.460(c) and 310.480(d)), reallocations (Sections 310.460(b) and 310.480(b)), adjustments (Sections 310.470, 310.480(e) and 310.495(c)) and interim assignments (Section 310.490(p)) shall not change the creditable service date.

"Comparable Classes" – Two or more classes that are in the same salary range.
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"Demotion" – The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

"Differential" – The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Base Salary" – The initial base salary assigned to an employee upon entering State service.

"Intermittent Merit Increase" – An intermittent merit increase is an increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" – The highest rate of pay for a given salary range.

"Midpoint Salary" – The rate of pay that is the maximum rate and the minimum rate in the salary range added together divided by two and rounded up or down to the nearest whole dollar.

"Minimum Rate of Pay" – The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary range.

"Option" – The denotation of directly-related education and/or experience required to qualify for the position allocated to the classification. The requirements may meet or exceed the requirements indicated in the classification specification. The following options are for the Public Service Administrator classification and have a negotiated pay grade and/or a broad-banded salary range assigned:

1 = General Administration/Business Marketing/Labor/Personnel
2 = Fiscal Management/Accounting/Budget/Internal Audit/Insurance/Financial
2B = Financial Regulatory
2C = Economist
3 = Management Information System/Data Processing/
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NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Telecommunications</td>
</tr>
<tr>
<td>6</td>
<td>Physical Sciences/Environment</td>
</tr>
<tr>
<td>6B</td>
<td>Health and Human Services</td>
</tr>
<tr>
<td>6C</td>
<td>Day Care Quality Assurance</td>
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<tr>
<td>6D</td>
<td>Health Statistics</td>
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<tr>
<td>6E</td>
<td>Health Promotion/Disease Prevention</td>
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<td>6F</td>
<td>Laboratory Specialist</td>
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<td>Infectious Disease</td>
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<td>6H</td>
<td>Disaster/Emergency Medical Services</td>
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<td>Law Enforcement/Correctional</td>
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<td>8B</td>
<td>Special License – Boiler Inspector License</td>
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<tr>
<td>8C</td>
<td>Special License – Certified Public Accountant/Certified Internal Auditor</td>
</tr>
<tr>
<td>8D</td>
<td>Special License – Federal Communications Commission License/National Association of Business and Educational Radio</td>
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<tr>
<td>8E</td>
<td>Special License – Engineer (Professional)</td>
</tr>
<tr>
<td>8F</td>
<td>Special License – Federal Aviation Administration Medical Certificate/First Class</td>
</tr>
<tr>
<td>8G</td>
<td>Special License – Clinical Professional Counselor</td>
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<tr>
<td>8H</td>
<td>Special License – Environmental Health Practitioner</td>
</tr>
<tr>
<td>8I</td>
<td>Special License – Professional Land Surveyor License</td>
</tr>
<tr>
<td>8J</td>
<td>Special License – Registered American Dietetic Association/Public Health Food Service Sanitation Certificate/Licensed Dietitian</td>
</tr>
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<td>8K</td>
<td>Special License – Licensed Psychologist</td>
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<td>8N</td>
<td>Special License – Registered Nurse License</td>
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<tr>
<td>8O</td>
<td>Special License – Occupational Therapist License</td>
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<tr>
<td>8P</td>
<td>Special License – Pharmacist License</td>
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<tr>
<td>8Q</td>
<td>Special License – Religious Ordination by Recognized Commission</td>
</tr>
<tr>
<td>8R</td>
<td>Special License – Dental Hygienist</td>
</tr>
<tr>
<td>8S</td>
<td>Special License – Social Worker/Clinical Social Worker</td>
</tr>
<tr>
<td>8T</td>
<td>Special License – Teaching Certificate Type 75 or General Administrative Type 61</td>
</tr>
</tbody>
</table>
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8U = Special License – Physical Therapist License
8V = Special License – Audiologist License
8W = Special License – Speech-Language Pathologist License
8X = Special License – Blaster Certificate
8Y = Special License – Plumbing License
8Z = Special License – Special Metrologist Training
9G = Special License – Registered Professional Geologist License

"Performance Review" – The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" – The date on which the annual merit increase and bonus shall be made effective if a performance review indicates it is appropriate. Actual performance review procedures are to be completed prior to the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" – The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

"Reallocation" – The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reclassification" – The assignment of a position or positions to a different classification based on creation of a new classification or the revision of existing class specification, and approved by the Civil Service Commission.

"Reevaluation" – The assignment of a different salary range to a class of positions based upon a change in relation to other classes or to the labor market.

"Salary Range" – The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" – The assignment of an employee to a vacant position in a class having the same salary range.
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"Work Year" – That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
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Section 310.APPENDIX A  Negotiated Rates of Pay

Section 310.TABLE AA  NR-916 (Department of Natural Resources, Teamsters)

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
<th>Bargaining Unit</th>
<th>Pay Plan Code</th>
<th>Minimum Salary</th>
<th>Maximum Salary</th>
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<tbody>
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<td>NR-916</td>
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<td>39053680</td>
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<td>NR-916</td>
<td>B</td>
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</tr>
<tr>
<td>Civil Engineer II</td>
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<td>NR-916</td>
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<tr>
<td>Civil Engineer III</td>
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<td>NR-916</td>
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<td>44554200</td>
<td>75307100</td>
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<td>47554485</td>
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<td>Engineering Technician IV</td>
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<td>Technical Manager I</td>
<td>45261</td>
<td>NR-916</td>
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</table>

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
NOTICE OF ADOPTED AMENDMENTS

Section 310. APPENDIX B  Schedule of Salary Grade Pay Grades – Monthly Rates of Pay

Effective January 1, 2008, the titles or positions within a title formerly assigned to salary grade pay grades are assigned to the Merit Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D). The only exception is that the Data Processing Supervisor I and Office Administrator III titles that remain assigned to salary grade pay grade 11 and salary grade pay grade 11 remains in effect.

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
<th>Pay Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Technician Trainee</td>
<td>00118</td>
<td>7</td>
</tr>
<tr>
<td>Animal and Animal Products Investigator Trainee</td>
<td>01075</td>
<td>12</td>
</tr>
<tr>
<td>Appraisal Specialist Trainee</td>
<td>01255</td>
<td>12</td>
</tr>
<tr>
<td>Arson Investigations Trainee</td>
<td>01485</td>
<td>14</td>
</tr>
<tr>
<td>Commerce Commission Police Officer Trainee</td>
<td>08455</td>
<td>13</td>
</tr>
<tr>
<td>Data Processing Supervisor I</td>
<td>11435</td>
<td>11</td>
</tr>
<tr>
<td>Economic Development Representative Trainee</td>
<td>12939</td>
<td>13</td>
</tr>
<tr>
<td>Educational Media Program Specialist</td>
<td>12980</td>
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<tr>
<td>Equine Investigator</td>
<td>13840</td>
<td>12</td>
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<tr>
<td>Fingerprint Technician Trainee</td>
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<td>Fire Certification Specialist</td>
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<td>Fire Protection Specialist-I</td>
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<td>Governmental Career Trainee</td>
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<tr>
<td>Historical Research Specialist</td>
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<td>20</td>
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<tr>
<td>Human Resources Assistant</td>
<td>19690</td>
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<tr>
<td>Human Resources Associate</td>
<td>19691</td>
<td>11</td>
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<tr>
<td>Inhalation Therapy Supervisor</td>
<td>21260</td>
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<tr>
<td>Insurance Company Claims Examiner I</td>
<td>21601</td>
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</tr>
<tr>
<td>Internal Auditor Trainee</td>
<td>21726</td>
<td>12</td>
</tr>
<tr>
<td>Liability Claims Adjuster Trainee</td>
<td>23375</td>
<td>12</td>
</tr>
<tr>
<td>Management Operations Analyst Trainee</td>
<td>25545</td>
<td>14</td>
</tr>
<tr>
<td>Mental Health Administrator Trainee</td>
<td>26817</td>
<td>15</td>
</tr>
<tr>
<td>Mine Rescue Station Assistant</td>
<td>28150</td>
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**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

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# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

**Section 310. APPENDIX C  Medical Administrator Rates (Repealed)**

Effective December 2, 2005, the minimum, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in creditable service date.

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The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Repealed at 32 Ill. Reg. 9881, effective July 1, 2008)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310. APPENDIX D  Merit Compensation System Salary Schedule

The Effective January 1, 2008, the titles or positions within a title assigned to the Merit Compensation System (Subpart C) and to rates within MC salary ranges are assigned to rates within the MS salary ranges in the Merit Compensation System Salary Schedule (Appendix D). The only exceptions are the Executive Secretary III and Security Officer Lieutenant titles that remain assigned to MC-02, the Dietary Manager I title that remains assigned to MC-03, the Data Processing Supervisor II, Internal Security Investigator I and Security Officer Chief titles that remain assigned to MC-04, the Dietary Manager II, Mental Health Administrator I and Waterways Construction Supervisor I titles that remain assigned to MC-05, the Corrections Leisure Activity Specialist IV, Data Processing Supervisor III, Executive II, Human Services Casework Manager, Internal Security Investigator II, Mental Health Administrator II, Statistical Research Supervisor and Telecommunications Supervisor titles that remain assigned to MC-07, and the Police Lieutenant title that remains assigned to MC-09. The only MC ranges that remain effective January 1, 2008 are MC-02, MC-03, MC-04, MC-05, MC-07, and MC-09.

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January 1, 2008
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

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Effective January 1, 2008
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

| MS  | MS-23   | 3528 | 6109 |
| MS  | MS-24   | 3626 | 6243 |
| MS  | MS-25   | 3724 | 6486 |
| MS  | MS-26   | 3831 | 6840 |
| MS  | MS-27   | 3937 | 6873 |
| MS  | MS-28   | 4058 | 7217 |
| MS  | MS-29   | 4178 | 7331 |
| MS  | MS-30   | 4303 | 7718 |
| MS  | MS-31   | 4432 | 8218 |
| MS  | MS-32   | 4565 | 8792 |
| MS  | MS-33   | 4702 | 9402 |
| MS  | MS-34   | 4843 | 10117|
| MS  | MS-35   | 4988 | 10839|
| MS  | MS-36   | 5138 | 11664|
| MS  | MS-37   | 5292 | 12594|
| MS  | MS-38   | 5451 | 12911|
| MS  | MS-39   | 5615 | 13212|
| MS  | MS-40   | 5783 | 16604|
| MS  | MS-41   | 8414 | 14110|
| MS  | MS-42   | 9093 | 14983|
| MS  | MS-43   | 9396 | 15380|
| MS  | MS-44   | 10441| 16752|
| MS  | MS-45   | 10812| 17619|
| MS  | MS-46   | 10987| 17824|
| MS  | MS-47   | 11163| 18036|

NOTE: Effective January 1, 2008, the merit compensation grade 12 in the Personnel Code [20 ILCS 415/8b.18(a) and (b) and 8b.19(a) and (b)] that formerly was indicated by MC-12 is MS-32.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
### Section 310.APPENDIX G  Broad-Band Pay Range Classes Salary Schedule

Effective December 2, 2005, the minimum, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in creditable service date.

<table>
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<tr>
<th>Title</th>
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<td>Health Information Administrator</td>
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<td>2324 5249</td>
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<td>Human Resources Specialist</td>
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<td>Public Service Administrator</td>
<td>3116 6820</td>
<td>3116 7979</td>
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<td>Residential Services Supervisor</td>
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<td>4295 10093</td>
<td>4295 10093</td>
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<tr>
<td><strong>Site Superintendent</strong></td>
<td><strong>2674 5330</strong></td>
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NOTE: The positions allocated to the Public Service Administrator title that are assigned to the broad-banded salary range have the following options: 1; 2; 2B; 2C; 3; 6; 6B; 6C; 6D; 6F; 6G; 7; 8A; 8C; 8F; 8G; 8H; 8I; 8J; 8K; 8L; 8N; 8O; 8P; 8Q; 8R; 8S; 8T; 8U; 8V; 8W; and 8X. See the definition of option in Section 310.500.

(Source: Amended at 32 Ill. Reg. 9881, effective July 1, 2008)
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Hospital Services

2) **Code Citation**: 89 Ill. Adm. Code 148

3) **Section Numbers**:
   - 148.126 Amendment
   - 148.500 Amendment
   - 148.510 Amendment

4) **Statutory Authority**: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Effective Date of Amendments**: June 26, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: February 29, 2008; 32 Ill. Reg. 2885 and March 14, 2008; 32 Ill. Reg. 3552

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences Between Proposal and Final Version**: In Section 148.126(d)(2), deleted the word "equal" and added "be determined through application of" and deleted "For" and added", except that, for".

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

13) **Will these amendments replace any emergency amendments currently in effect?** Yes

14) **Are there any other amendments pending on this Part?** Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>148.117</td>
<td>Amendment</td>
<td>32 Ill. Reg. 8218; June 6, 2008</td>
</tr>
<tr>
<td>148.122</td>
<td>Amendment</td>
<td>32 Ill. Reg. 8218; June 6, 2008</td>
</tr>
</tbody>
</table>
Summary and Purpose of Amendments: The amendment makes an adjustment to the Safety Net Adjustment Payments (SNAP) program to provide funding for high Medicaid utilization and teaching hospital providers to assure the continued access to quality health care for medical assistance clients. Further, these amendments are necessary to implement changes to the Illinois Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]. The changes will improve access to follow-up medical services related to a sexual assault for survivors in the department's Sexual Assault Emergency Treatment Program. Sexual assault survivors will have the option to receive their follow-up services from any community provider of their choice for 90 days following the initial hospital
visit for treatment of a sexual assault.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL  62763-0002

217/557-7157

The full text of the Adopted Amendments begins on the next page:
## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

### NOTICE OF ADOPTED AMENDMENTS

#### TITLE 89: SOCIAL SERVICES

#### CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

#### SUBCHAPTER d: MEDICAL PROGRAMS

#### PART 148

### HOSPITAL SERVICES

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<td>Definitions and Applicability</td>
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<tr>
<td>148.90</td>
<td>Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments</td>
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<tr>
<td>148.95</td>
<td>Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments</td>
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<td>148.103</td>
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<td>Psychiatric Base Rate Adjustment Payments</td>
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effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days;

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.126 Safety Net Adjustment Payments

a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a), unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006. A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:

1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.

2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.

3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).

4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
   A) Has an MIUR greater than 33 percent.
   B) Is designated a perinatal level two center by the Illinois Department of Public Health.
C) Has fewer than 125 licensed beds.

5) The hospital is a rural hospital, as described in Section 148.25(g)(3).

6) The hospital meets all of the following criteria:

A) Has an MIUR greater than 30 percent.

B) Had an occupancy rate greater than 80 percent in the safety net hospital base year.

C) Provided greater than 15,000 total days in the safety net hospital base year.

7) The hospital meets all of the following criteria:

A) Does not already qualify under subsections (a)(1) through (a)(6) of this Section.

B) Has an MIUR greater than 25 percent.

C) Had an occupancy rate greater than 68 percent in the safety net hospital base year.

D) Provided greater than 12,000 total days in the safety net hospital base year.

8) The hospital meets all of the following criteria in the safety net base year:

A) Is a rural hospital, as described in Section 148.25(g)(3).

B) Has an MIUR greater than 18 percent.

C) Has a combined MIUR greater than 45 percent.

D) Has licensed beds less than or equal to 60.

E) Provided greater than 400 total days.
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F) Provided fewer than 125 obstetrical care days.

9) The hospital meets all of the following criteria in the safety net base year:
   A) Is a psychiatric hospital, as described in 89 Ill. Adm. Code 149.50(c)(1).
   B) Has licensed beds greater than 120.
   C) Has an average length of stay less than ten days.

10) The hospital meets all of the following criteria in the safety net base year:
    A) Does not already qualify under subsections (a)(1) through (a)(9) of this Section.
    B) Has an MIUR greater than 17 percent.
    C) Has licensed beds greater than 450.
    D) Has an average length of stay less than four days.

11) The hospital meets all of the following criteria in the safety net base year:
    A) Does not already qualify under subsections (a)(1) through (a)(10) of this Section.
    B) Has an MIUR greater than 21 percent.
    C) Has licensed beds greater than 350.
    D) Has an average length of stay less than 3.15 days.

12) The hospital meets all of the following criteria in the safety net base year:
    A) Does not already qualify under subsections (a)(1) through (a)(11) of this Section.
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B) Has an MIUR greater than 34 percent.

C) Has licensed beds greater than 350.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

13) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(12) of this Section.

B) Has an MIUR greater than 35 percent.

C) Has an average length of stay less than four days.

14) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(13) of this Section.

B) Has a CMIUR greater than 25 percent.

C) Has an MIUR greater than 12 percent.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

E) Has licensed beds greater than 400.

F) Has an average length of stay less than 3.5 days.

15) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(14) of this Section.

B) Has a CMIUR greater than 28 percent.
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C) Is designated a perinatal Level II center by the Illinois Department of Public Health.

D) Has licensed beds greater than 320.

E) Had an occupancy rate greater than 37 percent in the safety net hospital base year.

F) Has an average length of stay less than 3.1 days.

16) A hospital provider that would otherwise be excluded from payment by subsection (a) because it does not operate a comprehensive emergency room, if the hospital provider operates within 1 mile of an affiliate hospital provider that is owned and controlled by the same governing body that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), and the provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider.

17) The hospital has an MIUR greater than 90% in the safety net hospital base year.

b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4), subsections (a)(6) through (a)(8) and subsections (a)(10) through (a)(15) of this Section:

1) Hospitals located outside of Illinois.

2) County-owned hospitals, as described in Section 148.25(b)(1)(A).

3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).

5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

c) Safety Net Adjustment Rates
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1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:

A) A qualifying hospital – $15.00.

B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – $20.00.

C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – $20.00.

D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
   i) Located within HSA 6 or HSA 7 – $296.00.
   ii) Located outside HSA 6 or HSA 7 – $35.00.

E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
   i) Located within HSA 6 or HSA 7 – $35.00.
   ii) Located outside HSA 6 or HSA 7 – $15.00.

F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:
   i) Located within HSA 6 or HSA 7 – $12.00.
   ii) Located outside HSA 6 or HSA 7 – $5.00.

G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – $290.75.

H) A children's hospital that is a rural hospital – $145.00.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital that is located in HSA 6 and that:

i) Provides obstetrical care – $10.00.

ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – $35.00.

v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – $5.00; less than 4.00 days – $5.00; less than 3.75 days – $5.00.

vi) Provides obstetrical care and has an MIUR greater than 65 percent – $11.00.

vii) Has greater than 700 licensed beds – $57.25.

J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:

i) Provides obstetrical care – $70.00.

ii) Does not provide obstetrical care – $30.00.

iii) Is a trauma center, recognized by the Illinois Department of Public Health (IDPH), as of July 1, 2005 – $173.50.

K) A qualifying hospital that provided greater than 35,000 total days
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in the safety net hospital base year – $43,256.00.

L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – $48.00.

2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be $154.50.

3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:

A) A qualifying hospital – $40.00.

B) A hospital that has an average length of stay of fewer than 4.00 days, and:
   i) More than 150 licensed beds – $20.00.
   ii) Fewer than 150 licensed beds – $40.00.

C) A qualifying hospital with the lowest average length of stay – $15.00.

D) A hospital that has a CMIUR greater than 65 per centum – $35.00.

E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – $160.00.

4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be $55.00.

5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:

A) The hospital that has the highest number of obstetrical care
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admissions – $30,840.00.

B) The greater of:

i) The product of $115.00 multiplied by the number of obstetrical care admissions.

ii) The product of $11.50 multiplied by the number of general care admissions.

6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is $149.00.

7) For a hospital qualifying under subsection (a)(7) of this Section, the rate is $322.50.

8) For a hospital qualifying under subsection (a)(8) of this Section, the rate is $124.50.

9) For a hospital qualifying under subsection (a)(9) of this Section, the rate is $85.50.

10) For a hospital qualifying under subsection (a)(10) of this Section, the rate is $96.25.

11) For a hospital qualifying under subsection (a)(11) of this Section, the rate is $39.50.

12) For a hospital qualifying under subsection (a)(12) of this Section, the rate is $120.25.

13) For a hospital qualifying under subsection (a)(13) of this Section, the rate is $365.00.

14) For a hospital qualifying under subsection (a)(14) of this Section, the rate is $601.75.

15) For a hospital qualifying under subsection (a)(15) of this Section, the rate is $540.00.
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16) For a hospital qualifying under subsection (a)(17) of this Section, the rate is $39.50.

d) Payment to a Qualifying Hospital

1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.

2) For the safety net adjustment period occurring in State fiscal year 2008 through 2007, total payments will be determined through application of equal the methodologies described in subsection (c) of this Section, except that, for the period February 16, 2008 through June 30, 2008, payment will equal the State fiscal year 2008 amount less the amount the hospital received under the safety net adjustment period for the quarters ending September 30, 2007 and December 31, 2007.

3) For safety net adjustment periods occurring after State fiscal year 2008 through 2007, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.

e) Definitions

1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.

2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(k)(6).

3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (e)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and
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those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).

4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.

5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

6) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.

7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.

8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (e)(7) of this Section.

9) "Occupancy rate" means a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days, and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365 days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals
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in Illinois".


11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.

12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended at 32 Ill. Reg. 9945, effective June 26, 2008)

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section 148.500 Definitions

"Act" means the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

"Alleged Sexual Assault Survivor" means a person who seeks hospital emergency services in relation to injuries or trauma resulting from an alleged act of forced sexual penetration or sexual conduct, as defined in Section 12-12 of the Criminal Code of 1961 [720 ILCS 5/12-12], including acts prohibited under Sections 12-13 through 12-16 of the Code [720 ILCS 5/12-13 through 12-16] and Sections 1a and
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2 of the Act [410 ILCS 70/1a and 2].

"Ambulance Provider" means an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients, ambulance service providing transportation for alleged sexual assault survivors.

"Area-wide Sexual Assault Treatment Plan" means a plan, developed by the hospitals in the community or area to be served, that provides for hospital emergency services to sexual assault survivors that shall be made available by each of the participating hospitals.

"Department" means the Illinois Department of Healthcare and Family Services Public Aid.

"Emergency Contraception" means medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Evidence Collection Kit" means a prepackaged set of materials and forms that has been approved by the Illinois State Police to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for all parts of the State shall be the Illinois State Police Sexual Assault Evidence Collection Kit (Section 6.4 of the Act).

"Follow-up Healthcare" means healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days after the initial visit for hospital emergency services.

"Forensic Services" means the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.

"Health Care Professional" means a physician, a physician assistant, or an advanced practice nurse.

"Hospital" means a facility located in Illinois licensed as a hospital by the Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS
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85] or that meets both the definition of a hospital and the licensure exemption provisions of the Hospital Licensing Act.

"Hospital Emergency Services" means health care delivered to outpatients alleged sexual assault survivors within or under the care and supervision of personnel working in a designated emergency department or emergency room of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.

"Illinois State Police Sexual Assault Evidence Collection Kit" means a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit.

"Medical Assistance Program" means the Medicaid Program authorized under Title XIX of the Social Security Act and Section 5 of the Public Aid Code [305 ILCS 5/5] and the State Children's Health Insurance Program (SCHIP), authorized under Title XXI of the Social Security Act and the Children's Health Insurance Program Act [215 ILCS 106].

"Nurse" means a nurse licensed under the Nurse Practice Act [225 ILCS 65].

"Physician" means a person licensed to practice medicine in all its branches.

"Sexual Assault" means an act of nonconsensual sexual conduct or sexual penetration, as defined in Section 12-12 of the Criminal Code of 1961 [720 ILCS 5], including, without limitation, acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961.

"Sexual Assault Survivor" means a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault.

"Sexual Assault Transfer Plan" means a written plan developed by a hospital and approved by the Department of Public Health that describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment.

"Sexual Assault Treatment Plan" means a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital
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emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.

"Transfer Facility" means a hospital that provides only transfer services to alleged sexual assault survivors, pursuant to 77 Ill. Adm. Code 545.

"Transfer Services" means the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or area wide sexual assault treatment plan.

"Treatment Facility" means a hospital that renders emergency treatment to alleged sexual assault survivors, pursuant to 77 Ill. Adm. Code 545.

(Source: Amended at 32 Ill. Reg. 9945, effective June 26, 2008)

Section 148.510 Reimbursement

When a hospital or ambulance provider furnishes emergency services, a hospital or health care professional or laboratory provides follow-up healthcare, or a pharmacy dispenses prescribed medications to any alleged sexual assault survivor who is neither eligible to receive those services under the Illinois Public Aid Code [305 ILCS 5/5] Department's Medical Assistance Program nor covered for those services by a policy of insurance, the hospital and ambulance provider shall furnish such services without charge to that person, and shall be entitled to be reimbursed for its billed charges in providing such services, under the following conditions:

a) An Illinois hospital shall be eligible for reimbursement only after receiving Department of Public Health approval for participation as a Sexual Assault Treatment Facility or as a Sexual Assault Transfer Facility.

b) Charges for outpatient emergency care, physician, and ambulance transportation, and other related charges shall be reimbursed only through the hospital outpatient billing department.

1) Physicians, ambulance providers, and other miscellaneous medical providers rendering services in the hospital emergency department shall
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not be directly reimbursed by the Department of Healthcare and Family Services.

2) Charges for inpatient care shall not be reimbursed.

3) Charges must be directly related to emergency care rendered for examinations, injuries, or trauma resulting from an alleged sexual assault and/or the completion of sexual assault evidence collection through the use and application of the Illinois State Police Sexual Assault Evidence Collection Kit.

4) Emergency room services must have been provided within the hospital emergency department or under the direction of an attending emergency room physician at the facility who supervised or provided the hospital emergency care of the alleged sexual assault survivor, or during the ambulance transport of the alleged sexual assault survivor.

5) Charges may include, but are not limited to, outpatient emergency care, physician, laboratory, x-ray, pharmacy and ambulance services, including charges for no more than two follow-up visits to the emergency department that are related to the alleged sexual assault and occur within 90 days after the initial visit.

6) The billed charges for services provided to alleged sexual assault survivors shall be no greater than the provider's customary charges to the general public for those types of services. Physician fees shall be no greater than those considered usual and customary in the community. Pharmacy services shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 89 Ill. Adm. Code 140.446.

7) Claims must be received by the Department within 12 months from the date of service to be eligible for payment.

c) The hospital shall maintain sufficient records to document its charges for services to each alleged sexual assault survivor. The records shall be available for the Department's review upon its request and shall contain at least the following:

1) Sexual assault survivor's name, address, date of birth,
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Social Security Number, marital status, sex, employer and name of parent or guardian (if minor patient);

2) Date of service;

3) Hospital patient number and name of attending physician;

4) List of services provided;

5) Charges for each service;

6) Any documentation concerning the alleged sexual assault survivor's insurance coverage; and

7) A report outlining each service provided and paid for by the Department and the services available to alleged sexual assault survivors.

d) The hospital outpatient billing department shall submit the following documentation in order to be considered for reimbursement:

1) The Illinois Department of Healthcare and Family Services Public Aid Sexual Assault Survivor Program Outpatient Hospital Billing Form, completed in its entirety for the initial visit and follow-up visits;

2) When applicable, the Billing Form with documentation of any insurance payment that has been received, or a copy of the denial from the insurance carrier;

3) A legible copy of the emergency room admission form with physician's notes and orders and nurse's notes; and

4) Itemized statement of all charges from each provider.

e) The health care professional who provides follow-up healthcare, the laboratory that furnishes follow-up services, and the pharmacy that dispenses related prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare, laboratory services or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services. Health care
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Professionals and laboratories are entitled to be reimbursed for their billed charges. Pharmacies shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 140.446.

(f) Under no circumstances shall an alleged sexual assault survivor be billed for outpatient hospital care, emergency room care, follow-up health care or transportation services when the services are directly related to the sexual assault.

g) A request for reimbursement that is rejected by the Department shall be returned to the requestor and accompanied by an explanation that specifies the basis for rejection. Corrected or amended requests may be resubmitted to the Department within 12 months from the date of service.

(Source: Amended at 32 Ill. Reg. 9945, effective June 26, 2008)
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1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 153

3) Section Number: Adopted Action:
   153.126          New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendment: June 27, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 3566; March 14, 2008

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

11) Differences between proposal and final version: In Section 153.126(b) deleted "long term care" and added "nursing" as it relates to facilities.

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

13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Increases socio-development component of rates for Institutions for Mental Disease (IMD) by 253% and that rates for intermediate care facilities for persons with developmental disabilities (ICF/DD), skilled long-term care facilities for persons under 22 years of age (SNF/Ped) and developmental training providers be increased by 2.2% and 2.5% respectively.

16) Information and questions regarding this adopted amendment shall be directed to:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL  62763-0002

217/557-7157

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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TITLE 89:  SOCIAL SERVICES
CHAPTER I:  DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER e:  GENERAL TIME-LIMITED CHANGES

PART 153
LONG TERM CARE REIMBURSEMENT CHANGES

Section 153.100 Reimbursement for Long Term Care Services
153.125 Long Term Care Facility Rate Adjustments
153.126 Long Term Care Facility Medicaid Per Diem Adjustments
153.150 Quality Assurance Review (Repealed)


SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,
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effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008.

Section 153.126 Long Term Care Facility Medicaid Per Diem Adjustments

a) Notwithstanding the provisions set forth in Section 153.100, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall be increased by 253 percent beginning with services provided on and after March 1, 2008.

b) Notwithstanding the provisions set forth in Section 153.100, daily residential rates effective on March 1, 2008, for intermediate care facilities for persons with developmental disabilities (ICF/DD), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), for which a patient contribution is required, shall be increased by 2.2 percent.

c) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on March 1, 2008 shall be increased by 2.5 percent.

(Source: Added at 32 Ill. Reg. 9972, effective June 27, 2008)
DEPARTMENT OF HUMAN SERVICES

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1) **Heading of the Part:** Family Assistance and Home-Based Support Programs for Persons with Mental Disabilities

2) **Code Citation:** 59 Ill. Adm. Code 117

3) **Section Number:** 
   Adopted Action:
   117.300 Amendment

4) **Statutory Authority:** Implementing the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-1] and the Family Assistance Law for Mentally Disabled Children [405 ILCS 80/3-1] and authorized by Section 2-16 of the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-16], Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/5]

5) **Effective Date of Rulemaking:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in the Illinois Register:** 32 Ill. Reg. 2428; February 15, 2008

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

11) **Differences between Proposal and Final Version:** There were no substantive changes to the rulemaking between the proposed and final version.

12) **Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** There were no agreements issued by JCAR.

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

14) **Are there any amendments pending on this Part?** No
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15) Summary and Purpose of Rulemaking: This rulemaking changes the eligibility criteria of the maximum household federal taxable income for the Family Assistance Program from less than $50,000 to less than $65,000.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES  
NOTICE OF ADOPTED AMENDMENT  

TITLE 59: MENTAL HEALTH  
CHAPTER I: DEPARTMENT OF HUMAN SERVICES  

PART 117  
FAMILY ASSISTANCE AND HOME-BASED  
SUPPORT PROGRAMS FOR PERSONS WITH MENTAL DISABILITIES  

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117.335  Right to investigate suspected fraud
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117.APPENDIX A  Preliminary Application forms
   117.ILLUSTRATION A  DMHDD-1235, Home-Based Support Services Program Application
   117.ILLUSTRATION B  DMHDD-1236, Family Assistance Program Application

117.APPENDIX B  Eligibility determination forms
   117.ILLUSTRATION A  DMHDD-1237.1, Eligibility Determination – Primary Examiners – Adults with a Severe mental Illness
   117.ILLUSTRATION B  DMHHEE-1237.2, Eligibility Determination – Primary Examiners – Children with Severe Emotional Disturbance
   117.ILLUSTRATION C  DMHDD-1237.3, Eligibility Determination – Primary Examiners – Children and Adults with Severe Autism
   117.ILLUSTRATION D  DMHDD-1237.4, Eligibility Determination – Primary Examiners – Children and Adults with Severe or Profound Mental Retardation
   117.ILLUSTRATION E  DMHDD-1237.5, Eligibility Determination – Primary Examiners

AUTHORITY:  Implementing the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-1] and the Family Assistance Law for Mentally Disabled Children [405 ILCS 80/3-1] and authorized by Section 2-16 of the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-16], Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/5].


SUBPART C: FAMILY ASSISTANCE PROGRAM
Section 117.300 Eligibility criteria

a) The number of eligible families chosen to participate in the Family Assistance Program shall be contingent upon the availability of funds appropriated by the General Assembly for these purposes.

b) To be eligible, a family must meet all of the following criteria:

1) Have a child 17 years old or younger who has a diagnosis of one of the conditions described in Section 117.200(b)(6) and who lives in the home. The eligible child may be living in an out-of-home placement at the time of application but must live with the parent within 60 days after the date of being notified of acceptance.

2) Reside in Illinois.

3) Have a maximum household federal taxable income of less than $65,000 annually (natural or adoptive family) as verified by the family's federal income tax return. Income eligibility shall be based on the year immediately preceding the date of application, unless the family can verify that its federal taxable income shall be less in the year the application is made. Families who can verify that they did not file an income tax return because of limited income shall be considered eligible. Such families shall be required to verify household income by listing all of their income from all sources from the previous year. The family income limit shall not apply to children in foster care. In such cases, the foster child's income shall be the determinant.

4) Apply annually.

(Source: Amended at 32 Ill. Reg. 9976, effective June 25, 2008)
1) **Heading of the Part:** Medicaid Community Mental Health Services Program

2) **Code Citation:** 59 Ill. Adm. Code 132

3) **Section Numbers:**

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4) **Statutory Authority:** Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3]

5) **Effective Date of Rulemaking:** July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in the Illinois Register:** 32 Ill. Reg. 6371; April 18, 2008

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

11) **Differences between Proposal and Final Version:**
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In Section 132.25, in the definition of Rehabilitative Services Associate, removed the revised text of "Beginning July 1, 2010, an RSA must have successfully completed 40 hours of State agency approved training and 40 hours of QMHP supervised on-the-job training per State agency approved protocols".

In Section 132.25, added "A supervised internship in a mental health setting counts toward the experience in providing mental health services" was added to the definition of Mental Health Professional.

In Section 132.70(d), added "Group supervision is acceptable and the size of the group should be conducive to the provision of clinical supervision.".

In Section 132.145(e), added the following at the end "If the public payer, or his or her designee, and the LPHA do not concur on medical necessity, an appeal may be initiated in writing or by phone in accordance with the Service Authorization Protocol located on the DHS website at http://www.dhs.state.il.us/page.aspx?item=33244.

In Section 132.148(c)(1), the last sentence was changed from "the ITP shall be completed following a completed" to "the ITP shall be developed, following the completion of".

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

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking is the result of revisions to the Medicaid State Plan by the federal Centers for Medicare and Medicaid (CMS), which will bring the rule into compliance with changes that are effective July 1, 2008.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
DEPARTMENT OF HUMAN SERVICES

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Springfield, Illinois  62762

217/785-9772

17)  Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code?  No

The full text of the Adopted Amendments begin on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

PART 132
MEDICAID COMMUNITY MENTAL
HEALTH SERVICES PROGRAM

SUBPART A: GENERAL PROVISIONS

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132.APPENDIX A Medicaid Community Mental Health Services Application Components (Repealed)
132.APPENDIX B Utilization Parameters (Repealed)
  132.TABLE A Mental Health Clinic Program Client Services (Repealed)
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  132.TABLE C Family Intervention, Stabilization and Reunification Services (Repealed)

AUTHORITY: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

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SUBPART A: GENERAL PROVISIONS

Section 132.10 Purpose

a) The requirements set forth in this Part establish criteria for participation by providers in the Medicaid community mental health services program. The Medicaid community mental health services program shall include the provision of specific mental health services pursuant to this Part supported financially in whole or in part by a public payer, as defined in Section 132.25.

b) These requirements are for the purpose of assuring that clients receiving Medicaid community mental health services shall receive services in accordance with this Part and in accordance with 42 CFR 440 and 456 (2003) for Medicaid-eligible clients.

c) The Department of Human Services (DHS) and the Department of Children and Family Services (DCFS) and the Department of Corrections (DOC), pursuant to an executed interagency agreement with the Department of Healthcare and Family Services (HFS), shall use these requirements to certify, recertify, and periodically review providers participating in the Medicaid community mental health services program, including the certification and recertification of the provider's eligibility for enrollment in the Illinois medical assistance program (89 Ill. Adm. Code 140).

d) The Medicaid community mental health services program is for clients who require mental health services as indicated by a diagnosis contained in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) (Centers for Medicare and Medicaid Services (CMMS) (2003)) or the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM-IV) (1994) or DSM-IV-TR (2000) (American Psychiatric Association). This shall include services designed to benefit clients:

1) Who require an evaluation to determine the need for mental health
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2) Who are assessed to require medically necessary mental health treatment to reduce the mental disability and to restore an individual to the maximum possible functioning level; or

3) Who are experiencing a substantial change/ deterioration in age appropriate or independent role functioning, acute symptomatology, and who require crisis intervention services to achieve stabilization; or

4) Who, because of substantial impairment in role functioning, require multiple coordinated mental health services delivered in a variety of settings.

e) Transition. In order to effectuate a smooth transition from the Part 132 rules as they existed prior to July 1, 2007 revisions and as they existed after that date, the State agencies will, until October 1, 2007, recognize any previous valid documentation presented by a provider that has not been updated to reflect the new requirements effective July 1, 2007. After October 1, 2007, this Part is fully applicable.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.25 Definitions

For the purposes of this Part, the following terms are defined:

Admission Note — A written report of an initial assessment and treatment plan that initiates Rule 132 services for clients who are admitted to a specialized substitute care living arrangement or for the client who does not have a completed mental health assessment and is admitted to ACT services or a residential facility designated by the public payer for the purpose of stabilizing a crisis.

"Adult." —An individual who is 18 years of age or older or a person who is emancipated pursuant to the Emancipation of Mature Minors Act [750 ILCS 30].

"Applicant." — An entity that seeks certification to provide Medicaid community mental health services under this Part.
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Certified Recovery Support Specialist or CRSS – An individual who is certified and in good standing as a Recovery Support Specialist by the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc. (IAODAPCA).

"Certifying State Agency." – Departments responsible for determining and monitoring compliance with this Part: Department of Healthcare and Family Services, Department of Human Services, Department of Children and Family Services or the Department of Corrections.


"Client." – An individual who is Medicaid-eligible and is receiving Medicaid community mental health services.

"CMMS." – Centers for Medicare and Medicaid Services. A federal agency within the U.S. Department of Health and Human Services with responsibility for Medicare, Medicaid, State Children's Health Insurance (SCHIP), Health Insurance Portability and Accountability Act (HIPAA), and Clinical Laboratory Improvement Amendments (CLIA).

"Collateral." – A person with a relationship to a client and who is important in the treatment or recovery goals of the client or who is a resource to assist the client in meeting treatment or recovery goals.


"Contract." – For purposes of this Part, a written agreement between the applicant/provider and a public payer.

"Co-occurring." – Co-existing mental health and substance use disorders or developmental disabilities. Individuals eligible to receive services under this Part must have a diagnosis of mental illness.

"Day." – A calendar day unless otherwise indicated.

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"DHS." — The Illinois Department of Human Services.

"DOC." — The Illinois Department of Corrections.


"Enrollment." — The official enrollment of a provider in the medical assistance program by HFS on determination of compliance with 89 Ill. Adm. Code 140.11.

"Family." — A basic unit or constellation of one or more adults and children, foster or adoptive parents and children, and private individual guardians.

Family Resource Developer — A parent or care-giver who has navigated multiple child serving systems on behalf of a child or adolescent with Severe Emotional Disturbance (SED) as a consumer of the mental health system. The individual has a high school diploma or equivalency and has demonstrated the ability to work collaboratively with families, children, agency staff and other providers in the community.

"GAF." — The Global Assessment of Functioning Scale contained in the DSM-IV.

"Guardian." — The court-appointed guardian or conservator of the person under the Probate Act of 1975 [755 ILCS 5] or a temporary custodian or guardian of the person of a child appointed by an Illinois juvenile court or a legally-appointed guardian or custodian or other party granted legal care, custody and control over a minor child by a juvenile court of competent jurisdiction located in another state whose jurisdiction has been extended into Illinois via the child's legally authorized placement in accordance with the applicable interstate compact. (The Juvenile Court Act of 1987 [705 ILCS 405]; Interstate Compact on the Placement of Children [45 ILCS 15])


"HIPAA." — The Health Insurance Portability and Accountability Act (42 USC 1320 et seq.) (45 CFR 160 and 164 (2003)).

"ICD-9-CM." — International Classification of Diseases, 9th Revision, Clinical...
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Modification (Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850 (2008 2003)).

"ITP." — Individual treatment plan.

"Level of Role Functioning" — Refers to the client's abilities in critical areas such as vocational, educational, independent living, self-care, and social and family relationships. To assess the severity of the impairment in role functioning, scales approved for use include, but are not limited to, the GAF Scale or the CGAS Scale.

"Licensed Clinician" — An individual who is either a licensed practitioner of the healing arts (LPHA); a licensed social worker (LSW) possessing at least a master's degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services or with at least two years experience in mental health services; a licensed professional counselor (LPC) possessing at least a master's degree and licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] with specialized training in mental health services or with at least two years experience in mental health services; a registered nurse (RN) licensed under the Nurse Practice Act [225 ILCS 65] with at least one year of clinical experience in a mental health setting or who possesses a master's degree in psychiatric nursing; or an occupational therapist (OT) licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting.

"Licensed Practitioner of the Healing Arts or healing arts (LPHA)." — An Illinois licensed health care practitioner who, within the scope of State law, has the ability to independently make a clinical assessment, certify a diagnosis and recommend treatment for persons with a mental illness and who is one of the following: a physician; an advanced practice nurse with psychiatric specialty licensed under the Nurse Practice Act [225 ILCS 65]; a clinical psychologist licensed under the Clinical Psychologist Licensing Act [225 ILCS 15]; a licensed clinical social worker (LCSW) licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; a licensed clinical professional counselor (LCPC) licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or a licensed marriage and family therapist (LMFT) licensed under the Marriage and
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"Medicaid" – Medical assistance authorized by HFS under the provisions of the Illinois Public Aid Code [305 ILCS 5/Art. V], the Children's Health Insurance Program Act [215 ILCS 106] and Titles XIX and XXI of the Social Security Act (42 USCA 1396 and 1397aa).

Medical Necessity or Medically Necessary – A mental health intervention is medically necessary if:

- the individual has a diagnosis of mental illness or serious emotional disorder as defined in ICD-9-CM or DSM-IV;
- mental health services are identified as appropriate to the individual's needs as identified in a mental health assessment; and
- the intervention could not have been omitted without adversely affecting the individual's functioning.

The LPHA shall recommend that medical or remedial services are necessary to reduce the physical or mental disability of an individual and to restore an individual to the maximum possible functioning level. A service is not medically necessary if it is provided solely for the convenience of the individual, his or her family or the provider.

"Mental Health Professional or (MHP)." – An individual who provides services under the supervision of a qualified mental health professional and who possesses: a bachelor's degree; a practical nurse license under the Nurse Practice Act [225 ILCS 65]; a certificate of psychiatric rehabilitation from a DHS-approved program plus a high school diploma plus 2 years experience in providing mental health services; a recovery support specialist certified and in good standing with the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc., plus one year experience in providing mental health services; an occupational therapy assistant licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of experience in a mental health setting; or a minimum of 5 years supervised experience in mental health or human services. A supervised internship in a mental health setting counts toward the experience in providing mental health services. Any individual meeting the minimum credentials for an
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LPHA or QMHP under this Part is deemed to also meet the credentialing requirements of an MHP.

"Mental Illness" — A mental or emotional disorder diagnosis contained in the DSM-IV or ICD-9-CM, authorized by the public payer funding the services under this Part and the condition that will be the main focus of treatment for services under this Part. Mental illness does not include organic disorders such as dementia and those associated with known or unknown physical conditions such as hallucinosis, amnestic disorder and delirium; psychoactive substance induced organic mental disorders; and mental retardation or psychoactive substance use disorders.

Natural Setting — A setting where an individual not identified as mentally ill typically spends time, including home, school, work, churches, community centers, libraries, parks, recreation centers, etc. These sites are not licensed, certified or accredited as a treatment setting nor typically identified as treatment sites.

"Off-site." — Locations other than a certified provider site as described in Section 132.90 provider sites, as described in this Part, where community mental health services are provided and that require the staff to travel from their usual office base in order to deliver the service. A place of residence that is owned or leased operated by a provider and occupied by a client also will be considered an off-site location unless there is a certified site connected to the residence an office on-site that is the usual office base of the staff delivering the services.

On-site — Location that is a certified provider site as described in Section 132.90.

"Part 132 Services" — The community mental health services described in this Part.


"Provider." — An entity certified to provide Medicaid community mental health services in accordance with this Part.
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"Public Payer" = HFS, a State agency or a unit of local government that is responsible for payment for services under this Part provided to a client pursuant to a contract with the provider.

"Qualified Mental Health Professional" or "QMHP." = One of the following:

- A licensed social worker (LSW) possessing at least a master's degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services or with at least 2 years experience in mental health services;

- A licensed professional counselor possessing at least a master's degree and licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] with specialized training in mental health services or with at least two years experience in mental health services;

- A registered nurse (RN) licensed under the Nurse Practice Act [225 ILCS 65] with at least one year of clinical experience in a mental health setting or who possesses a master's degree in psychiatric nursing;

- An occupational therapist (OT) licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting; or

- An individual possessing at least a master's degree in counseling and guidance, rehabilitation counseling, social work, vocational counseling, psychology, pastoral counseling, or family therapy or related field, who has successfully completed a practicum or internship that included a minimum of 1,000 hours of supervised direct service, or who has one year of clinical experience under the supervision of a QMHP.

Any individual meeting the minimum credentials for an LPHA under this part is deemed to also meet the credentialing requirements of a QMHP.

"Rehabilitative Services Associate or RSA" = An RSA must be at least 21 years of age, have demonstrated skills in the field of services
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to adults or children, have demonstrated the ability to work within the provider's structure and accept supervision, and have demonstrated the ability to work constructively with clients, treatment resources and the community. Any individual meeting the minimum credentials for an MHP, MPH, QMHP or LPHA under this Part is deemed to also meet the credentialing requirements of an RSA.

"SASS." — A program of intensive mental health services provided by an agency certified to provide Part 132 services and under contract to provide screening, assessment and support services to children with a mental illness or emotional disorder who are at risk for psychiatric hospitalization.

"Specialized Substitute Living Arrangements" — A living arrangement providing services to a client supervised by a provider licensed under the Child Care Act of 1969 [225 ILCS 10] or any comparable Act in another state when the provider is under contract to the State agency.

"State Agency" — Department of Healthcare and Family Services, Department of Juvenile Justice, Department of Human Services, Department of Children and Family Services or the Department of Corrections.

"Unit of Local Government" — A county, municipal corporation, or other local government entity organized under the laws of the State of Illinois that, pursuant to an executed intergovernmental agreement with HFS, has agreed to pay for Medicaid community mental health services.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.30 Application, Certification and Recertification Processes

a) A State agency, subject to an executed interagency agreement with HFS in its capacity as the Medicaid State agency for Illinois, is authorized to perform the functions ascribed under this Part.

b) Any entity having a contract with a State agency for the provision of mental health services, other than hospital inpatient or hospital outpatient psychiatric services, with DCFS for the provision of child welfare services, with DCFS or DHS for the provision of youth services, or with DOC for the provision of youth treatment, rehabilitative or transitional services may apply for certification as a provider. Applicants who meet the requirements of this Part will be certified by
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one of the State agencies and enrolled as a provider in the Illinois medical assistance program by HFS pursuant to 89 Ill. Adm. Code 140.11. Providers will be certified by, and subject to, Medicaid certification review by only one State agency. Providers who are certified to provide comparable Medicaid services in other states may apply to a State agency for reciprocity consideration and enrollment. Providers applying for reciprocity consideration and enrollment will be subject to the same standards as those providers applying for certification under this Part.

c) Applications may be obtained by submitting a request in writing to:

   Illinois Department of Human Services
   Bureau of Accreditation, Licensure and Certification
   401 North Fourth Street
   Springfield, Illinois 62702

   or

   Illinois Department of Children and Family Services
   Office of Medicaid Certification
   406 East Monroe Street
   Springfield, Illinois 62701

   or

   Illinois Department of Corrections
   Office of Medicaid Certification
   1301 Concordia Court
   Springfield, Illinois 62794-9277

d) The applicant shall submit to DHS, DCFS or DOC a completed "Application for Certification of Medicaid Community Mental Health Services Programs" with all of the required accompanying components, as specified on the application form. An applicant shall submit its application to the Certifying State Agency that it intends to contract with for Part 132 services.

   1) If an applicant intends to contract for Part 132 services with more than one State agency, the applicant shall submit its application to the State agency that provides the most funding for those Medicaid community mental
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health services.

2) If the funding from the Certifying State Agencies is equal, the applicant shall submit the application to DHS.

3) The application shall request information including, but not limited to:

A) Applicant name and corporate status;

B) List of services the applicant is requesting be certified;

C) Description of how each service to be certified fits into the programs of the applicant and other evidence of compliance with specific service definitions (see Section 132.150);

i) For Psychosocial Rehabilitation, the applicant must submit a work week schedule for each site, demonstrating 25 hours of available PSR and the name of the staff at each location who has co-occurring training or experience;

ii) For Assertive Community Treatment, the applicant must submit the names of staff on each team, indicating their credentials and their role on the team, e.g., person in recovery, experience in co-occurring disorders, and the time worked each week; and

iii) For Community Support Team, the applicant must submit the names of staff on each team, indicating their credentials and their role on the team, and the amount of time that each staff works on the team weekly;

D) List of sites to be certified and the services to be provided at each site;

E) Fire, electrical and plumbing clearances for each site, pursuant to Section 132.90;

F) The address of all accessible sites;
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G) A staffing roster including staff qualifications and supervisory responsibilities for each of the sites;

H) Policies on confidentiality and third-party payments;

I) Utilization review plan; and

J) Medicare certification status.

e) If the application form and all of the required components are in compliance with this Part, the State agency shall issue to the provider a certificate for the Medicaid community mental health services program.

1) An applicant that submits an application that is not in compliance with this Part shall receive a Notice of Deficiencies. The Certifying State Agency shall issue the Notice of Deficiencies within 30 days after receiving the application. If the applicant intends to proceed with applying for Medicaid certification, the applicant shall submit corrected documentation to address all of the deficiencies. The applicant shall submit the corrected documentation to the Certifying State Agency that received the application and issued the Notice of Deficiencies.

2) The State agency shall issue the certificate within 30 days after the Certifying State Agency receives the completed application and all required components, including corrected documentation, if applicable. The effective date of certification shall be the date that the application or, if required, corrected documentation was approved. The Certifying State Agency shall also send the Medicaid enrollment forms to the provider. The provider shall complete the enrollment forms for each certified site to enroll those sites in the Illinois medical assistance program.

f) Certification shall be for a 3-year period.

1) A provider shall deliver only mental health services under this Part for which it is certified. Any changes during the certification period that affect the ability of the provider to deliver services in compliance with the requirements of this Part shall be reported to the Certifying State Agency.

2) Any changes during the certification period that affect the ability of the
provider to deliver services in compliance with the requirements of this Part shall be reported to the Certifying State Agency. A provider shall deliver only mental health services under this Part for which it is certified.

3) A provider is expected to provide Psychosocial Rehabilitation (PSR), Assertive Community Treatment (ACT), Community Support Residential (CSR) and Community Support Team (CST) services within 90 days after being notified of certification for the services. If the service is not implemented within 90 days, the provider must show compliance with the requirements in subsection (p) before the Part 132 services can be provided.

4) If a provider has been certified for PSR, ACT, CSR or CST and decides to no longer provide the services, the provider shall notify the Certifying State Agency at least 60 days prior to discontinuing the services. The service may be subject to removal from the certificate. Prior to discontinuing the service, the provider shall provide a plan for transitioning consumers to other services or to other providers.

5) The provider shall submit team rosters for ACT and CST upon public payer request.

g) Within 12 months after the date of initial certification, the Certifying State Agency shall conduct a review.

1) At the review, the Certifying State Agency shall evaluate the provider's compliance with this Part.

2) If no deficiencies are noted at the review, the Certifying State Agency shall notify the provider of the results within 30 days after the completion of the review. Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period.

3) If deficiencies are noted at the review, the Certifying State Agency shall report those deficiencies to the provider during an exit conference. The Certifying State Agency shall also issue a Notice of Deficiencies, return receipt requested, to the provider within 30 days after the completion of the review.
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4) If the Certifying State Agency issues a Notice of Deficiencies to the provider, the provider shall respond with a Plan of Correction pursuant to Section 132.45(a). The Plan of Correction shall address all of the deficiencies listed on the Notice of Deficiencies. The Plan of Correction must identify the actions that have been, or will be, taken to comply with this Part and the timeframes for implementing the corrective actions. Unless otherwise specified, the timeframes for implementing corrective actions must follow the requirements specified in Section 132.45. The provider must submit this Plan of Correction to the Certifying State Agency within 30 days after the return receipt of the Notice of Deficiencies.

A) Providers that submit a Plan of Correction approved by the Certifying State Agency shall be notified of the approval. The Certifying State Agency shall notify the provider of the approval within 30 days after the Certifying State Agency receives the provider's Plan of Correction. The Certifying State Agency shall verify the provider's implementation of the Plan of Correction at the next review. If a Plan of Correction was required, the next review shall occur within 12 months after the date the Plan of Correction was approved.

i) If the findings at the next review indicate that a provider has failed to implement a Plan of Correction, the Certifying State Agency may revoke the provider's certification.

ii) Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period.

B) If a provider submits a Plan of Correction that does not address the deficiencies noted during a review pursuant to subsection (g)(4), the Certifying State Agency shall notify the provider within 30 days after receipt of the provider's Plan of Correction. The provider shall submit a revised Plan of Correction that addresses the deficiencies within 10 days after receiving notification. The Certifying State Agency may revoke the provider's certification if the provider fails to submit an acceptable revised Plan of Correction within 10 days after the return receipt date.
C) The Certifying State Agency may revoke a provider's certification if the provider fails to submit a Plan of Correction for deficiencies noted during a review within 30 days after receipt of the Notice of Deficiencies.

h) Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period. If the Certifying State Agency fails to conduct a compliance review for certification before the expiration of the current certification period, the certification shall remain valid until completion of the compliance review. Subsequent compliance reviews shall follow the process outlined in subsection (g).

i) The Certifying State Agency, HFS, or their respective agents, shall be granted access to all provider sites. All records shall be made available to the Certifying State Agency, HFS, or their respective agents, on request during the initial certification review, recertification reviews and any other compliance reviews for services delivered under this Part. Access to records shall occur in accordance with the Confidentiality Act.

j) An applicant/provider who has been decertified by Medicare shall not be eligible for certification under this Part.

k) When a decision is made to deny certification of an applicant or recertification of a provider, the applicant/provider may appeal the decision and request a hearing in accordance with Section 132.55 of this Part and Section 10-25 of the Illinois Administrative Procedure Act [5 ILCS 100/10-25].

l) If an applicant/provider has been denied certification or recertification, or if the provider's certification has been revoked, the applicant/provider may not reapply for certification under this Part for at least one year after the date of the final decision, including any appeals regarding certification, recertification or revocation.

m) Following a review, a provider shall be notified of its level of compliance with this Part as specified in Section 132.45.

n) The findings from a review shall be placed in one of the levels of compliance as described in Section 132.45.
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o) Providers that seek certification for new sites shall submit the following documentation to the Certifying State Agency:

1) A clearance letter from the Office of the State Fire Marshal or approved local fire authority, dated within the preceding 12 months, stating that each additional site complies with local and State fire safety ordinances and codes pursuant to Section 132.90. For providers certified by DHS, the clearance letter must come from the Office of the State Fire Marshal only.

2) A signed statement from a licensed plumber or licensed architect, dated within the preceding 12 months, stating that each additional site complies with applicable plumbing codes pursuant to Section 132.90.

3) A signed statement from an electrician or licensed architect, dated within the preceding 12 months, stating that each additional site complies with applicable electrical codes pursuant to Section 132.90.

4) A signed statement from the provider, dated within the preceding 12 months, attesting to compliance with requirements of physical accessibility standards pursuant to Section 132.90.

5) A list of the Part 132 services that will be provided at the site.

p) Providers that seek certification for additional Part 132 services shall submit a description of the additional services, including evidence of compliance with specific service definitions in this Part, and the sites where the services will be delivered. Providers requesting to add Part 132 services whose standards are changed as a result of revisions to Sections 132.150 and 132.165 are expected to show compliance with standards as adopted. The description shall state how the additional services will be provided within the provider's program and shall include a listing of the LPHAs and QMHPs who will be responsible for directing the services. The provider shall submit the documentation for certification of additional services to the Certifying State Agency.

q) Additional sites or services must be approved by the Certifying State Agency before the additional sites or services may be considered for certification.
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r) The provider’s application for certification of additional sites or services shall be processed by the Certifying State Agency according to the provisions outlined in subsection (e). Approved additional sites or services shall be indicated on a revised certificate. If additional sites are certified, the provider shall enroll those sites in the Illinois medical assistance program. The addition of sites or services will not alter the expiration date of the certificate.

s) The Certifying State Agency shall survey any additional sites or services for compliance with this Part during the next review.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.42 Post-Payment Review

The State agency may conduct on-site post-payment reviews to determine compliance with documentation requirements of this Part and to determine amounts subject to recoupment.

a) The State agency shall compare billed services to those listed on the ITP or Admission Note in effect at the time service was provided. The State agency will determine that the following are unsubstantiated:

1) Billings for services without a completed ITP or Admission Note being in effect, except for mental health assessment; ITP development, review and modification; crisis intervention; transition linkage and aftercare; or mental health case management pursuant to Section 132.165(a)(1);

2) Billings for services that the provider is not certified to provide;

3) Billings for services not listed on the ITP or Admission Note, except for mental health assessment; ITP development, review and modification; crisis intervention; transition linkage and aftercare; or mental health case management pursuant to Section 132.165(a)(1); or

4) Billings that do not comply with the requirements of this Part.

b) The post-payment review must verify compliance with the documentation requirements identified in subsection (a) of this Section.
c) The State agency will report its findings to the provider through an Initial Notice of Unsubstantiated Billings.

1) The initial notice will be sent to the provider within 30 days after the completion of the on-site review.

2) The provider will have 30 days after the receipt of the initial notice to submit documentation that was not available during the on-site review. Documentation submitted may not include anything produced following the on-site review.

   A) The State agency will review the additional documentation within 14 days after receipt to determine if it meets the requirements of this Part.

   B) Adjustments will be made to the State agency's findings if the additional documentation meets the requirements of this Part.

d) The State agency will report the final outcome to the provider through a Final Notice of Unsubstantiated Billings or a Notice of Suspension from Billing.

1) When a provider receives a Notice of Suspension from Billing, the provider will immediately stop submitting bills for Medicaid community mental health services under this Part.

2) The provider will have 90 days to make corrections to its documentation processes to bring them into compliance with this Part.

3) When the provider notifies the State agency in writing that they have made the necessary corrections, the State agency will review them for compliance with this Part within 14 days.

4) If compliant, the provider will be notified by mail and may resume billing.

5) The provider may submit bills that have the required documentation for services provided during the suspension.

6) If corrections are not made within 90 days, the State agency shall revoke the provider's certification.
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e) If the State agency finds evidence of suspected Medicaid fraud or abuse, the State agency shall refer such evidence to HFS, Office of Inspector General for further action.

f) HFS, in its capacity as the Medicaid single state agency for Illinois, may conduct on- or off-site reviews of payments made by any and all public payers to a provider.

g) The provider may appeal the State agency's intent to recover funds as specified in Section 132.44.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.44 Appeal of Post-Payment Review Findings

a) If the State agency determines that the provider is not in compliance with the billing documentation requirements of this Part pursuant to a post-payment review conducted in accordance with Section 132.42, the State agency shall notify the provider in writing of its findings. The notice shall include:

1) The reason for the State agency's findings;

2) A statement of the provider's right to request a hearing within 20 days after the provider's receipt of the written notice;

3) A statement of the legal authority and jurisdiction under which the hearing is to be held; and

4) The address where a request for hearing may be filed.

b) If a provider chooses to appeal the State agency's findings, the provider shall submit a written request for a hearing to the State agency within 20 days after the date of receipt of the written notice.

c) The sole issue at the hearing shall be whether the provider is in compliance with billing documentation requirements set forth in this Part.
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d) The request for hearing shall be filed with, and received by, the State agency within 20 days after the date of the receipt of the written notice to the provider.

e) Hearing process

1) HFS's hearing rules for medical vendor hearings at 89 Ill. Adm. Code 104.200 shall apply, except that the following Sections do not apply to these hearings: 104.204, 104.206, 104.208, 104.210, 104.216, 104.217, 104.221, 104.260, 104.272, 104.273 and 104.274.

2) The State agency shall, within 5 days after receiving the appeal, send a copy of the appeal to the Illinois Department of Healthcare and Family Services Vendor Hearings Section, 401 South Clinton, 6th Floor, Chicago, Illinois 60607.

3) The appellant shall direct all subsequent communications relevant to the hearing to the HFS Vendor Hearings Section.

4) An administrative law judge appointed by HFS shall conduct the hearing.

5) A recommended decision shall be submitted to the Director of Healthcare and Family Services and copies mailed to the parties, in accordance with the provisions of 89 Ill. Adm. Code 104.290. A copy shall also be mailed to the State agency that referred the matter to HFS.

f) Final administrative decision

The Director of Healthcare and Family Services shall issue a final administrative decision in accordance with the provisions of 89 Ill. Adm. Code 104.295.

g) Judicial review

The final administrative decision shall be subject to judicial review exclusively as provided in the Administrative Review Law [735 ILCS 5(Art. III).

h) A provider shall be liable for reimbursement of claims submitted from the date of the final administrative decision pursuant to this Section if such decision results in an adverse finding for the provider.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)
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Section 132.45 Compliance with Certification Requirements

a) Medicaid community mental health service providers shall be recognized according to levels of compliance with standards as set forth in this Part. Providers with findings of Level 1 and 2 will be considered to be in good standing with the State agency. The levels of compliance are:

1) Level 1 – Compliant: No written Plan of Correction will be required of the provider (90-100% compliance).

2) Level 2 – Substantial compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the identified deficiencies. Within 12 months after the date that a Plan of Correction is approved, the Certifying State Agency shall conduct a review to evaluate the provider's implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frame, the Certifying State Agency may revoke the provider's certification to provide services pursuant to this Part (75-89% compliance).

3) Level 3 – Minimal compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the identified deficiencies. After 90 days from the date that a Plan of Correction is approved, the Certifying State Agency shall conduct a review to evaluate the provider's implementation of the Plan of Correction. The provider's level of compliance must reach at least Level 2 to demonstrate implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frame, the Certifying State Agency may revoke the provider's certification to provide services pursuant to this Part (50-74% compliance).

4) Level 4 – Unsatisfactory compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the cited deficiencies. After 60 days from the date that a Plan of Correction is approved, the Certifying State Agency shall conduct a review to evaluate the provider's implementation of the Plan of Correction. The provider's level of compliance must reach at least Level 3 to demonstrate implementation of the Plan of Correction. After 90 days from the date that the Plan of Correction was approved, the provider's level of compliance
must reach at least Level 2 to demonstrate implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frames, the Certifying State Agency may revoke the provider's certification to provide services pursuant to this Part (under 50% compliance).

b) When a written Plan of Correction is required, the provider shall submit the Plan of Correction within 30 days after receipt of the Notice of Deficiencies.

e) In the event that all contracts between the provider and a State agency for the provision of services under this Part are terminated, certification of the provider shall likewise be revoked and HFS will be advised of this by the State agency. The provider is solely liable for the cost of services provided after a contract has been terminated or certification has been revoked.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.50 Revocation of Certification

a) The Certifying State Agency shall issue a written notice revoking certification during a certification period for any of the following:

a1) Provider meeting any of the grounds for termination set forth in 89 Ill. Adm. Code 140.16; or

b2) Provider discontinuing delivery of all Medicaid community mental health services for which the provider has been certified; or

c3) Provider being convicted of defrauding the medical assistance program under Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA].

b) In the event that all contracts between the provider and a State agency for the provision of services under this Part are terminated, certification of the provider shall likewise be revoked and HFS will be advised of this by the State agency. The provider is solely liable for the cost of services provided after a contract has been terminated or certification has been revoked.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)
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Section 132.60 Rate Setting

a) The State agency shall compute rates of reimbursement for services under this Part. The rates will be effective only after approval by HFS in its capacity as the Medicaid single state agency. Providers and the public shall be informed of any changes in the methods and standards of determining payment rates for services funded under this Part pursuant to 42 CFR 447.205 (2003).

b) Rate calculation

1) For services authorized by this Part to be reimbursed at fractions of or multiples of service hours, the State agency shall calculate rates on an hourly basis. Rates shall be calculated for each of the direct care staff classifications (RSAs, MHPs, QMHPs, and RNs) as the sum of average annual direct care wages and salaries (including paid benefits) and annual per person overhead and administrative costs necessary for direct care staff divided by billable annual direct care staff hours.

2) Average annual direct care wages and salaries shall be obtained for each of the 4 direct care staff classifications from the most recent State of Illinois Consolidated Financial Reports, as submitted to meet the requirements in Section 132.80(b). Annual per person overhead and administrative costs necessary for direct care staff shall be calculated from a model of reasonable and efficient operation and include consideration of the cost of administrative staff, support staff, clinical supervisory staff, and site operation. Billable annual direct care staff hours shall be calculated from a model of reasonable and efficient operation and include the consideration of direct care staffing activities necessary to produce billable services that are not themselves billable, such as training, travel, documentation, and missed appointments.

A) Hourly crisis service rates shall be calculated in the manner described in subsection (b)(1) and multiplied by a factor of 1.6 to compensate for availability of 24 hours per day, 7 days per week.

B) Hourly rates for services that may be provided for groups of clients shall be calculated in the manner described in subsection (b)(2) and divided by the maximum allowable group size as specified in
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Section 132.150, with an allowance for incomplete attendance or participation.

c) Mental health services described in Subpart C of this Part may be integrated into a comprehensive array and billed on a per diem basis and defined on an individual specialized substitute care provider basis by the State agency using the factors enumerated in subsection (b) of this Section.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

Section 132.70 Personnel and Administrative Recordkeeping

a) The provider shall have a comprehensive set of personnel policies and procedures that include, but are not limited to:

1) Job descriptions and qualifications and documentation of current licensure and certification for all staff, including those on contract with the provider or with an entity subcontracting with the provider. The provider shall also maintain job descriptions for volunteers and unpaid personnel;

2) Documentation that staff providing or supervising services pursuant to this Part meet the staff qualifications defined in this Part, and that their individual performance is evaluated no less frequently than once every 12 months; and

3) Documentation that the provider has written personnel policies concerning hiring, evaluating, disciplining and terminating staff.

b) The provider must show documentation indicating that staff have engaged in professional development and continuing education activities. Acceptable documentation may include, but is not limited to, training approval forms, reimbursement/payments for training, training calendars, outlines of training activities, or a list of notifications or training events.

c) A provider certified or funded by DHS shall not employ a person in any capacity until the provider has inquired of the Department of Public Health as to information in the Health Care Worker Nurse Aide Registry concerning the
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person. If the Registry has information substantiating a finding of abuse or neglect against the person, the provider shall not employ him or her in any capacity.

d) Each provider shall develop, implement and maintain a plan for clinical supervision of QMHPs, MHPs and RSA all non-licensed staff who perform Part 132 services. A LPHA or QMHP must provide the supervision for a minimum of one hour per month through face-to-face, teleconference or videoconference. Group supervision is acceptable and the size of the group should be conducive to the provision of clinical supervision. Supervision must be documented in a written record. Supervision of staff as noted in this subsection must be for a minimum of one hour per month through face-to-face, teleconference or videoconference.

1) QMHPs must be supervised by an LPHA.

2) MHPs and RSAs must be supervised by, at a minimum, a QMHP.

3) LPHAs are not required to have clinical supervision under this Section.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.91 Accreditation

a) The Certifying State Agency shall grant deemed status to providers having a contract with the State agency and demonstrating current accreditation status under any of the standards of the following accrediting organizations:

1) 2006 Hospital Accreditation Standards (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 2006);

2) 2006-2007 Standards for Behavioral Health Care (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 2006);

3) 2005-2006 Comprehensive Accreditation Manual for Health Care Networks (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace,
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Illinois 60181, 2006);

4) Council on Accreditation Standards, Eighth Edition (Council on Accreditation of Services for Families and Children (COA), 120 Wall Street, 11th Floor, New York, New York 10005, 2006); COA Standards and Self Study Manual, 7th Edition (Council on Accreditation of Services for Families and Children (COA), 120 Wall Street, 11th Floor, New York, New York 10005, 2001);

5) Quality Outcomes 2005 (The Council on Quality Leadership, 100 West Road, Suite 406, Towson, Maryland 21204, 2005);

6) Standards Manual and Interpretive Guidelines for Behavioral Health (Commission on Accreditation of Rehabilitation Facilities (CARF), 4891 East Grant Road, Tucson, Arizona 85711, 2008); or

7) Standards Manual and Interpretive Guidelines for Employment and Community Support Services (Commission on Accreditation of Rehabilitation Facilities (CARF), 4891 East Grant Road, Tucson, Arizona 85711, 2008).

b) "Deemed status" means that if a provider has been accredited by any of the accrediting organizations identified in subsections (a)(1) through (a)(7) of this Section, the Certifying State Agency shall deem the provider to be in compliance with the following Sections of this Part:

1) Section 132.65;

2) Section 132.70(a) and (b);

3) Section 132.85(a)(1) through (a)(6) and (a)(8), (b)and (c);

4) Section 132.95 (a) and (d) through (f) and (h);

5) Section 132.100(a) through (h) and (k) through (m); and

6) Section 132.145(f).

c) Demonstration of current accreditation status shall be achieved by submission of a
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certificate of accreditation and the most recent accreditation report by the provider to the Certifying State Agency.

d) If the provider's accreditation status changes for any reason, the provider shall notify the Certifying State Agency of that change within 30 days after the effective date of the change. A provider who fails to notify the Certifying State Agency of a change in accreditation may have its certification revoked pursuant to Section 132.50.

e) Deemed status may be nullified by a finding by the Certifying State Agency that the provider is non-compliant with one or more of the Sections identified in subsections (b)(1) through (b)(6) of this Section.

f) If a provider offering only non-residential services is accredited and is in compliance with Section 132.90 at the time of recertification, on-site inspections will not be required for recertification purposes. Sites offering residential services are subject to an on-site inspection for recertification. All new sites shall be required to undergo on-site inspections.

g) If a certified site is licensed by DCFS as a child care institution or group home, an on-site inspection of that site may not be required for recertification purposes. The site must be in good standing with DCFS and must be in compliance with Section 132.90 at the time of recertification. All new sites shall be required to undergo on-site inspection.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.100 Clinical Records

The client's clinical record shall contain, but is not limited to the following:

a) Identifying information, including client's name, Medicaid recipient identification number, address and telephone number, gender, date of birth, primary language or method of communication (e.g., Spanish, American Sign Language, communication board), name and phone number of emergency contact, date of initial contact and initiation of mental health services, third party insurance coverage, marital status, and source of referral;

b) Documentation of consent for or refusal of mental health services;
c) Assessment and reassessment reports;

d) A single consolidated ITP within a provider organization. The ITP must be current;

e) Admission Note, if applicable;

f) Documentation concerning the prescription and administration of psychotropic medication as specified in Section 132.150(d)(1);

g) Documentation of missed appointments;

h) Documentation of client referral or transfer during any active service period to or from the provider's programs or to or from other providers;

i) Documentation to support services provided for which reimbursement is claimed shall be in the format specified by the public payer, shall be legible and shall include, but not be limited to, the following elements:

1) The specific service, including whether the service was rendered in a group, individual or family setting and a note in the periodic report indicating the specific Part 132 mental health services billed by name or code;

2) The date the service was provided;

3) The start time and duration for each service;

4) The name and credential of the staff providing the service;

5) The specific provider site or off-site location setting where services were rendered; and

6) Written documentation describing the interaction that occurred during service delivery, including the client's response to the clinical interventions and progress toward attainment of in relation to the goals in the ITP.
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j) Comprehensive mental health services and short-term diagnostic mental health services shall be documented:

1) According to subsection (i) of this Section; and

2) On a daily basis by completion of shift treatment summaries and other service documentation.

A) Shift treatment summaries may only be used to document community support residential services;

B) Shift treatment summaries shall be completed according to subsection (i); and

C) Shift treatment summaries shall include the client's general level of role functioning over the period being documented;

jk) ITP reviews describing the client's overall progress;

kl) A written record of the client's major accidents or incidents that occur at the site with regard to a specific client, whether self-reported or observed, and resulting in an adverse change in the client's physical or mental functioning; and

lm) Discharge summary documenting the outcome of treatment and, as necessary, the linkages for continued services.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

SUBPART C: MENTAL HEALTH SERVICES

Section 132.142 Clients' Rights

To assure that a client's rights are protected and that all services provided to clients comply with the law, providers shall ensure that:

a) A client's rights shall be protected in accordance with Chapter 2 of the Mental Health and Developmental Disabilities Code [405 ILCS 5].
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b) The right of a client to confidentiality shall be governed by the Confidentiality Act and the Health Insurance Portability and Accountability Act of 1996.

c) Justification for restriction of a client's rights under the statutes cited in subsections (a) and (b) shall be documented in the client's clinical record. In addition, the client affected by such restriction, his or her parent or guardian and any agency designated by the client pursuant to subsection (d)(2) shall be notified of the restriction.

d) Staff shall inform the client prior to evaluation services of the following:

1) The rights in accordance with subsections (a), (b) and (c);

2) The right to contact the Guardianship and Advocacy Commission and Equip for Equality, Inc. Staff shall offer assistance to a client in contacting these groups, giving each client the address and telephone number of the Guardianship and Advocacy Commission and Equip for Equality, Inc.;

3) The right to be free from abuse, neglect, and exploitation;

4) The right to be provided mental health services in the least restrictive setting;

5) The right or the guardian's right to present grievances up to and including the provider's executive director or comparable position. The client or guardian will be informed of how his or her grievances will be handled at the provider level. A record of such grievances and the response to those grievances shall be maintained by the provider. The executive director's decision on the grievance shall constitute a final administrative decision (except when such decisions are reviewable by the provider's governing board, in which case the governing board's decision is the final authority at the provider level);

6) The right not to be denied, suspended or terminated from services or have services reduced for exercising any rights; and

7) The right to contact the public payer or its designee and to be informed of the public payer's process for reviewing grievances.
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e) The information in subsection (d) shall be explained using language or a method of communication that the client understands and documentation of such explanation shall be placed in the clinical record.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.145 General Provisions

A provider shall comply with the following:

a) A provider shall, at a minimum, directly provide mental health assessment, ITP development, review, modification (see Section 132.148(c)) and at least one additional Part 132 mental health service. Directly provided means that the QMHP and LPHA who signed the mental health assessment and ITP are employed by or contractual employees of the provider. The public payer may waive the requirement of at least one additional Part 132 mental health service if it deems that such waiver increases the availability of mental health services to Medicaid-eligible clients.

b) A provider may subcontract for services authorized by this Part. All subcontractors must be certified to participate in the Illinois Medical Assistance program and enrolled as a provider with HFS. There shall be a written agreement between the provider and the subcontractor that defines their contractual agreement and assures the subcontractor's compliance with applicable service provisions of Subpart C. All subcontractors must be certified to participate in the Illinois Medicaid program and enrolled as a provider with HFS. All subcontracts must be approved by and on file with the State agency and, when applicable, the public payer. For purposes of this subsection, an employee or contractual employee or an individual on contract is not considered to be a subcontractor.

c) Unless specified otherwise, services under this Part shall be provided to clients with a diagnosis of mental illness as defined in Section 132.25 and whose level of role functioning, in the absence of treatment or medication, is impaired. The provision of mental health services is expected to result in an improvement or prevention of regression in the client's existing condition.

d) Consent
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1) Prior to the initiation of mental health services, the provider shall obtain written or oral consent from the client and the client's parent or guardian, as applicable.

2) Consent must be given by the parent or guardian for a child under 12 years of age, except a child 12 through 17 years of age can consent to treatment for 5 outpatient sessions of no more than 45 minutes in duration.

3) If the client is determined to be in need of crisis intervention services, or if the assessment is court ordered for the client, consent is not required.

4) Legally competent adults who participate in treatment services are deemed to have consented.

5) Oral consent shall also be documented in the record.

e) An LPHA shall provide the clinical direction and recommend medically necessary services as determined by his or her dated signature on the mental health assessment and ITP. The public payer, or his or her designee, may provide additional clinical direction in determining whether services are medically necessary. If the public payer or its designee and the LPHA do not concur on medical necessity, an appeal may be initiated in writing or by phone in accordance with the Service Authorization Protocol located on the DHS website at http://www.dhs.state.il.us/page.aspx?item=33244.

f) When discharging a client from services, the provider shall ensure the continuity and coordination of services as provided in the client's ITP. The provider shall:

1) Communicate, consistent with the requirements of Section 132.142, relevant treatment and service information prior to or at the time that the client is transferred to a receiving program of the provider or is terminated from service and referred to a program operated by another service provider, if the client, or parent or guardian, as appropriate, provides written authorization; and

2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services.
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g) Services provided under this Part are subject to the provisions of an executed contract between the provider and the public payer. The public payer is not required to reimburse services under this Part not enumerated in the contract.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)

Section 132.148 Evaluation and Planning

a) Mental health assessment is a formal process of gathering information regarding a client's mental and physical status and presenting problems through face-to-face, video conference or telephone contact with the client and collaterals, resulting in the identification of the client's mental health service needs and recommendations for service delivery. A diagnosis of mental illness is not required prior to beginning a mental health assessment.

1) A mental health assessment is required prior to the development and implementation of an ITP. A mental health assessment is not required prior to the initiation of crisis services described in Section 132.150(b) and case management services described in Section 132.165(a)(1).

2) The provider shall complete a mental health assessment report within 30 days after the first face-to-face contact. When a client is hospitalized for crisis services, the first face-to-face contact shall be the initial contact following discharge from the hospital.

3) A written mental health assessment report shall be a compilation of the following:

   A) Identifying information: name, gender, date of birth, primary method of communication;

   B) Extent, nature, and severity of presenting problems;

   C) DSM-IV or ICD-9-CM diagnosis;

   D) Family history, including the history of mental illness in the family;
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E) Mental status evaluation, including, at a minimum, attention, memory, information, attitudes, perceptual disturbances, thought content, speech, affect, suicidal or homicidal ideation, and an estimation of the ability and willingness to participate in treatment;

F) Client preferences relating to services and desired treatment outcomes;

G) Personal history, including mental illness and mental health treatment;

H) History of abuse/trauma (childhood sexual or physical abuse, intimate partner violence, sexual assault or other forms of interpersonal violence);

I) Present level of functioning, including social adjustment and daily living skills;

J) Legal history and status, including guardianship and current court involvement;

K) Assessment of risk, including the identification of factors that may endanger either the client or the client's family and other immediate threats to the client's personal safety (e.g., gang involvement, domestic violence, elder abuse);

L) Education, specialized training, and vocational skills;

M) Employment history;

N) Interests, activities and hobbies;

O) History of current alcohol or other substance use, abuse or dependence;

P) Name and contact information of the client's primary care physician;
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Q) Previous and current psychotropic medications, including date of most recent psychiatric evaluation;

R) General physical health, including date of last physical examination, any known symptoms or complaints, and current medications not noted in subsection (a)(2)(Q), including over-the-counter medications;

S) Resources such as family, community, living arrangements, religion, and personal client strengths; and

T) Summary analysis, conclusions and recommendations for specific Part 132 services.

43) An admission note may be used to initiate services prior to the completion of a mental health assessment for a client who is admitted to a specialized substitute care living arrangement; a residential facility designated by the public payer for the purpose of stabilizing a crisis; or ACT prior to the completion of a comprehensive assessment as required in Section 132.150(i)(2)(A). An Admission Note must be completed within 24 hours after a client's admission and is effective for a maximum of 30 days.

A) The Admission Note is a written report of an initial assessment and treatment plan and shall include the following:

i) Identifying information: name, gender, date of birth, primary language or method of communication, date of initiating assessment;

ii) Client's current mental health functioning level;

iii) Provisional diagnosis;

iv) Pertinent history;
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v) Precautions (e.g., suicidal risk, homicidal risk, flight risk) and special programming to meet the client's needs;

vi) Initial treatment plan, including a list of Part 132 services that will be provided and the staff responsible for those services; and

vii) Other relevant information.

B) An Admission Note shall be completed by at least an MHP following a face-to-face or video conference meeting with the client.

C) A QMHP shall be responsible for approving the completed Admission Note as documented by the QMHP's dated signature on the Admission Note.

4) For comprehensive mental health services or short-term diagnostic and mental health services, a mental health assessment report shall be completed within 30 days after a client's admission. The provider shall complete a mental health assessment report within 30 days after a client's admission to comprehensive mental health services or short-term diagnostic and mental health services when an admission note was completed to initiate services. For all other Part 132 services, the provider shall complete a mental health assessment report within 30 days after the first face-to-face contact.

5) A QMHP who has had, at a minimum, one face-to-face or video conference contact with the client shall be responsible for the completed mental health assessment report as documented by his/her dated signature on the mental health assessment. MHPs may participate in the mental health assessment.

6) The client's family or guardian may participate in the mental health assessment during which the family will be given the opportunity to provide pertinent information or support. Participation by the family and other interested persons must be in accordance with the Confidentiality Act and HIPAA.
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7) The mental health assessment report shall be reviewed and approved by the LPHA as documented by the LPHA's dated signature on the mental health assessment. The LPHA shall determine in writing if any additional evaluations are required to assess the client's functioning or service needs.

8) The mental health assessment shall be updated annually by the QMHP who has, at a minimum, one face-to-face contact with the client prior to the completion of the updated mental health assessment. The annual update must occur within 12 months after the LPHA's signature on the mental health assessment report or the previous update. The QMHP shall be responsible for the completed update as documented by his or her dated signature on the updated mental health assessment. The LPHA shall review and approve the assessment as documented by the LPHA's dated signature on the updated mental health assessment. MHPs may participate in the mental health assessment update.

9) For services initiated by an Admission Note, the provider shall complete a mental health assessment report or a comprehensive assessment for an ACT client within 30 days after the client's admission.

10) The annual update of the mental health assessment shall minimally include all requirements specified under subsection (a)(32) with the exception of requirements listed under subsections (a)(32)(A), (D), (G) and (H). Providers may include requirements under subsections (a)(32)(A), (D), (G) and (H) as medically necessary and clinically indicated as part of the mental health assessment update. Providers may also indicate "no change" where applicable on the mental health assessment update if there has been no change in status.

b) A psychological evaluation, if recommended, shall:

1) Be conducted within 90 days after completion of the ITP and documented by the provider consistent with the Clinical Psychologist Licensing Act [225 ILCS 15] using nationally standardized psychological assessment instruments; a master's level professional may assist;

2) Be conducted face-to-face or video conference with the client; and
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3) Result in a written report that includes a formulation of problems, tentative diagnosis and recommendations for treatment or services.

c) Treatment plan development, review and modification is a process that results in a written ITP, developed with the participation of the client and the client's parent/guardian, as applicable, and is based on the mental health assessment report and any additional evaluations. The ITP is also known as a rehabilitation treatment plan or a recovery treatment plan. Active participation by the client and/or persons of the client's choosing, which may include a parent/guardian, is required for all ITP development, whether it is the initial ITP or subsequent reviews and modifications shall be documented by the client's or parent's/guardian's signature on the ITP. Participation by the client or parent/guardian shall be documented by the client's or parent's/guardian's signature on the ITP. In the event that a client or a client's parent/guardian refuses to sign the ITP, the LPHA, QMHP or MHP shall document the reason for refusal and indicate by his or her dated signature on a progress note that the ITP was reviewed with the client and that the client or his or her parent/guardian refused to sign the ITP.

1) The initial ITP shall be completed within 45 days after the completion of the mental health assessment as documented by the LPHA's dated signature on the ITP. When providers of comprehensive mental health services or short-term diagnostic and mental health services must complete an ITP within 30 days after a client's admission to the program when an Admission Note was completed to initiate services, the ITP shall be developed, following the completion of a mental health assessment, within 30 days after the client's date of admission.

2) A written ITP is a compilation of the following:

A) The goals/anticipated outcomes of services;

B) Intermediate objectives to achieve the goals;

C) The specific Part 132 mental health services to be provided;

D) The amount, frequency and duration of Part 132 services to be provided; and
E) Staff responsible for delivering services.

3) The ITP shall include a definitive diagnosis that has been determined for all five axes in the DSM-IV or the ICD-9-CM. If the diagnosis cannot be determined by the time the ITP is completed or a rule out diagnosis is given, the client's clinical record must contain documentation as to what evaluations will occur in order to provide a definitive diagnosis in the ITP. A diagnosis shall be determined within 90 days and the ITP shall be modified to reflect the diagnosis, as necessary.

4) Responsibility for development, review and modification of the ITP shall be assumed by a QMHP as documented by his/her dated signature on the ITP. MHPs may participate in the development of the ITP. An LPHA shall provide the clinical direction of mental health services identified in the ITP as documented by his/her dated signature on the ITP.

5) The LPHA and the QMHP shall review the ITP no less than once every 6 months to determine if the goals set forth in the ITP are being met and whether each of the services described in the plan has contributed to meeting the stated goals. The ITP shall be modified if it is determined that there has been no measurable reduction of disability or restoration of functional level and modify the ITP as necessary, as documented by their dated signatures.

6) The ITP review shall include continuity of care planning with the client or the client's parent/guardian. The ITP review shall also include an estimated transition or discharge date and identify goals for continuing care.

7) The results of crisis assessments, reassessments or additional evaluations after the client's ITP is completed shall be incorporated into a modified ITP, if appropriate, within 30 days.

8) The provider shall explain to the client and/or persons of the client's choosing, which may include the client's parent/guardian, as applicable and as evidenced by a signed and dated statement by the provider and the client or parent/guardian, the process for the development, review and modification of the contents of the ITP. The ITP shall be developed,
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reviewed and modified with the participation of the client and the client's parent/guardian, as applicable.

9) The ITP and all its revisions shall be signed by the parent or guardian if the client is under 12 years of age. If the client is 12 through 17 years of age, the ITP shall be signed by the client and by the parent/guardian, as applicable, unless the client is an emancipated minor. A client 18 years of age or older or an emancipated minor shall sign the ITP. If the client is 18 years of age or older and has been adjudicated as legally incapable, the ITP shall be signed by the legally appointed guardian.

10) A copy of the signed ITP shall be given to the client, if not clinically contraindicated, and the client's parent/guardian, as applicable. The ITP and documentation that the signed ITP has been provided to the client or parent/guardian, or proof of clinical contraindication, shall be incorporated into the client's clinical record.

11) Commencement of Services

A) Mental health services may be provided concurrently with ITP development if:

i) The mental health assessment report is completed, signed and dated by the LPHA or the Admission Note is signed and dated by the QMHP;

ii) The service is recommended as medically necessary on the completed mental health assessment; and

iii) The services provided are included in the completed ITP, signed by an LPHA within the designated time frame.

B) If services are provided prior to completion of the ITP, and the client terminates services before the ITP is completed and signed, the provider must complete the ITP and document that the client terminated services and was unavailable to sign the ITP.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)
Section 132.150 Mental Health Services

a) All services defined in this Section shall be provided and terminated in accordance with the following criteria unless exceptions are noted:

1) The services shall be provided:

   A) Following a mental health assessment or Admission Note, as applicable, and consistent with the client's ITP or Admission Note, as applicable;

   B) Through face-to-face, video conference or telephone contact;

   C) To clients and their families, at the client's request or agreement; with groups of clients; or with the client's family as it relates to the primary benefit and well being of the client and when related to an assessed need and goal on the client's ITP; and

   D) Services may be provided on- or off-site, as indicated under the specific service.

2) Service termination criteria shall include:

   A) Determination that the client's acute symptomatology has improved and improvement can be maintained;

   B) Determination that the client's level of role functioning has significantly deteriorated to a degree where referral or transfer to a more intensive mental health treatment is indicated; or

   C) Documentation in the client's clinical record that the client terminated participation in the program.

b) Crisis intervention services are activities to stabilize a client in a psychiatric crisis to avoid more restrictive levels of treatment and that have the goal of immediate symptom reduction, stabilization and restoration to a previous level of role functioning. A crisis is defined as a deterioration in the level of role functioning of the client within the past 7 days or an increase in acute symptomatology.
Crisis intervention services shall be provided to clients who are experiencing a psychiatric crisis and acute symptomatology. For a child or adolescent, a crisis may include events that threaten safety or functioning of the client or extrusion from the family or the community. Children in psychiatric crisis who are believed to be in need of admission to a psychiatric inpatient facility and for whom public payment may be sought shall be provided with crisis intervention pre-hospitalization screening. The child shall be screened for inpatient psychiatric admission and shall have his or her mental health needs assessed, according to the requirements of the SASS (Screening, Assessment and Support Services) Program (59 Ill. Adm. Code 131).

2) Crisis intervention services may be provided prior to a mental health assessment and prior to a mental health diagnosis.

3) Crisis intervention services shall include an immediate preliminary assessment that includes written documentation in the clinical record of presenting symptoms and recommendations for remediation of the crisis. Crisis intervention services may also include, if appropriate, brief and immediate mental health services or referral, linkage and consultation with other mental health services.

4) The preliminary assessment shall be incorporated into the mental health assessment and ITP, as applicable.

5) Crisis intervention services shall be delivered by at least an MHP with access to a QMHP who is available for immediate consultation and clinical supervision.

6) During regular hours of operation, the provider shall be able to provide immediate face-to-face or video conference crisis intervention services. Outside regular hours of operation, the provider shall be able to provide, at a minimum, crisis assessment and referral to mental health services, as necessary.

c) Psychotropic medication services

1) Documentation requirements
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A) If prescribed by a physician or an advanced practice nurse, employed by or on contract with the provider, there shall be evidence that psychotropic medication has been prescribed by the physician or advanced practice nurse per the collaborative agreement that includes physician-delegated prescription authority.

B) If a physician is employed by or on contract with the provider, there shall be evidence that psychotropic medication is reviewed at least every 90 days by a physician or advanced practice nurse.

C) Notations shall be made in the client's clinical record regarding psychotropic medication and other types of medication. Notations shall include:

   i) All medication being taken by the client;

   ii) Current psychotropic medication: name, dosage, frequency and method of administration;

   iii) Any problems with psychotropic medication administration and activities implemented to address these problems;

   iv) A statement indicating that the client has been informed of the purpose of the psychotropic medication ordered and the side effects of the medication; and

   v) Assessment of the client's ability to self-administer medications.

2) Psychotropic and other medication shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security and in accordance with Department of Public Health's rules at 77 Ill. Adm. Code 300.1640.

3) Services shall be provided face-to-face with one exception: Phone consultation is allowed for psychotropic medication monitoring when a client is experiencing adverse symptoms from psychotropic medication, and phone consultation with another professional is necessary.
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4) Psychotropic medication administration
   A) Psychotropic medication administration consists of preparing the client and the medication for administration, administering psychotropic medications, observing the client for possible adverse reactions, and returning the medication to proper storage.
   B) Psychotropic medication shall be administered by personnel licensed to administer medication pursuant to the Nurse Practice Act or the Medical Practice Act of 1987.

5) Psychotropic medication monitoring
   A) Psychotropic medication monitoring includes observation and evaluation of target symptom response, adverse effects, including tardive dyskinesia screens, and new target symptoms or medication. This may include discussing laboratory results with the client.
   B) Psychotropic medication monitoring shall be provided by staff designated in writing by a physician or advanced practice nurse per the collaborative agreement. The authorized staff shall not provide the service prior to the date of the signature.

6) Psychotropic medication training
   A) Psychotropic medication training includes training the client or the client's family or guardian to administer the client's medication, to monitor proper levels and dosage, and to watch for side effects.
   B) Psychotropic medication training shall be provided by staff designated in writing by a physician or an advanced practice nurse per the collaborative agreement.
   C) Psychotropic medication training shall be provided to clients in the following areas:
      i) Purpose of taking psychotropic medications;
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ii) Psychotropic medications, effects, side effects and adverse reactions;

iii) Self-administration of medications;

iv) Storage and safeguarding of medications;

v) Communicating with professionals regarding medication issues; or

vi) Communicating with family/caregivers regarding medication issues.

D) Services may be provided individually or in a group setting.

d) Therapy/counseling is a treatment modality to promote emotional, cognitive, behavioral or psychological changes as identified in the ITP. Services shall be provided face-to-face, by telephone or videoconference. Therapy/counseling intervention utilizes psychotherapy theory and techniques.

1) Therapy/counseling services may be provided to:

A) An individual client;

B) A group of 2 or more clients; or

C) A family, including parents, spouses and siblings (client need not be present).

2) Therapy/counseling services shall be provided by at least an MHP.

3) Examples of therapy/counseling include:

A) Cognitive behavioral therapy;

B) Functional family therapy;

C) Motivational enhancement therapy;
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D) Trauma counseling;

E) Anger management; and

F) Sexual offender treatment.

e) Community Support − Individual (CSI)

1) Community Support − Individual services are mental health rehabilitation services and supports for children, adolescents, families and adults necessary to assist clients in achieving and maintaining rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources.

2) Service Activities and Interventions shall include:

A) Coordination and assistance with the identification of individual strengths, resources, preferences and choices;

B) Assistance with the identification of existing natural supports for development of a natural support team;

C) Assistance with the development of crisis management plans;

D) Assisting with the identification of risk factors related to relapse and development of relapse prevention plans and strategies;

E) Support and promotion of client self-advocacy and participation in decision making, treatment and treatment planning;

F) Assisting the client to build a natural support team for treatment and recovery;

G) Support and consultation to the client or his/her support system that is directed primarily to the well-being and benefit of the client; and
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H) Skill building in order to assist the client in the development of functional, interpersonal, family, coping and community living skills that are negatively impacted by the client's mental illness.

3) Program requirements

A) CSI services shall be provided face-to-face, by telephone or by video conference.

B) A minimum of 60% of all Community Support – Individual services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period but will not be required for each individual.

C) CSI services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings, and at hours that do not interfere with the client's work, educational and other community activities.

4) Staffing requirements

CSI services shall be delivered by at least an RSA.

5) Service exclusions

CSI is an integral part of ACT and Community Support Team and shall not be considered a separate service for clients who receive ACT or CST. CSI services may be provided for a maximum of 30 days on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CST.

f) Community Support – Group (CSG)

1) Community Support – Group services consist of mental health rehabilitation services and supports for children, adolescents, families and adults necessary to assist a group of clients to achieve and maintain rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions delivered by individuals or multidisciplinary
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teams that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources.

2) Service Activities and Interventions shall include those activities and interventions described in subsection (e)(2).

3) Program requirements

A) CSG services shall be provided face-to-face in group settings ranging in size from 2 to 15 clients;

B) A minimum of 60% of all Community Support Group services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period, but will not be required for each individual client.

C) CSG services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings and at hours that do not interfere with the client's work, educational and other community activities.

4) Staffing requirements

CSG services shall be delivered by at least an RSA.

5) Service exclusions

CSG services is an integral part of ACT and shall not be considered a separate service for clients who receive ACT. CSG services may be provided for a maximum of 30 days on an individual basis as authorized by the public payer in accordance with a treatment plan in order to facilitate transition to and from the ACT.

g) Community Support – Residential (CSR)

1) Community Support – Residential services consist of mental health rehabilitation services and supports for children, adolescents and adults necessary to assist individuals in achieving and maintaining rehabilitative, resiliency and recovery goals. The service consists of therapeutic
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interventions that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources for individuals who reside in sites designated by the public payer.

2) Service Activities and Interventions shall include those activities and interventions described in subsection (e) and (f)(2).

3) CSR services shall be provided face-to-face, by telephone or by video conference in group or individual settings.

4) Eligibility criteria: Individuals eligible for CSR shall include individuals whose mental health needs require active assistance and support to function independently as developmentally appropriate within home, community, work and/or school settings and who are in public payer designated residential settings.

5) Staffing requirements
CSR services shall be delivered by at least an RSA.

6) Service exclusions
Many CSR activities are an integral part of ACT and CST and shall not be considered a separate service for clients who receive ACT or CST. CSR services may be provided for a maximum of 30 days on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CST or while a client is receiving residential services to stabilize a crisis.

h) Community Support – Team (CST)

1) Community Support – Team services consist of mental health rehabilitation services and supports available 24 hours per day and 7 days per week for children, adolescents, families and adults to decrease hospitalization and crisis episodes and to increase community functioning in order for the client to achieve and maintain rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions delivered by a team that facilitates illness self-management, skill building, identification and use of natural supports, and use of community resources.
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2) Service Activities and Interventions shall include those activities and interventions described in subsections (d) and (e)(2).

3) Program requirements

A) CST services shall be provided face-to-face, by telephone or by video conference to an individual or family member;

B) A minimum of 60% of all Community Support Team services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period, but will not be required for each individual client;

C) CST services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings and at hours that do not interfere with the client's work, educational and other community activities;

D) CST shall maintain a client-to-staff ratio of no more than 18 clients per full time equivalent staff;

E) Documentation shall demonstrate that more than one member of the team is actively engaged in the direct service to the individual;

F) The CST shall conduct organizational staff meetings at least one time per week at regularly scheduled times, according to a schedule established by the team leader.

4) Eligibility criteria

Individuals eligible for CST services are those who require team-based outreach and support for their moderate to severe mental health symptoms and who, with such coordinated clinical and rehabilitative support, may access and benefit from a traditional array of psychiatric services. A less intensive service must have been tried and failed or must have been considered and found inappropriate at this time, and the individual must exhibit 3 or more of the following:
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A) Multiple and frequent psychiatric inpatient readmissions, including long-term hospitalization;

B) Excessive use of crisis/emergency services with failed linkages;

C) Chronic homelessness;

D) Repeat arrest and re-incarceration;

E) History of inadequate follow-through with elements of an ITP related to risk factors, including lack of follow-through, taking medications, following a crisis plan, or maintaining housing;

F) High use of detoxification services (e.g., 2 or more episodes per year);

G) Medication resistance due to intolerable side effects or the individual's illness interfering with consistent self-management of medications;

H) Child and/or family behavioral health issues that have not shown improvement in traditional outpatient settings and require coordinated clinical and supportive interventions;

I) Because of behavioral health issues, the child or adolescent has shown risk of out-of-home placement or is currently in out-of-home placement and reunification is imminent;

J) Clinical evidence of suicidal ideation or gesture in the last 3 months;

K) Ongoing inappropriate public behavior within the last 3 months, including public intoxication, indecency, disturbing the peace, etc.;

L) Self-harm or threats of harm to others within the last 3 months; or

M) Evidence of significant complications such as cognitive impairment, behavioral problems or medical problems.
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5) There shall be documentation in the assessment or client record that the individual meets 3 of the above eligibility criteria.

6) Staffing requirements
CST services shall be delivered by:

   A) A team approved by the public payer or its designee;

   B) A full-time team leader who is at least a QMHP and serves as the clinical and administrative supervisor of the team and also functions as a practicing clinician on the team;

   C) An RSA or MHP who works under the supervision of the QMHP and who works on the team in sufficient full-time equivalents to meet the required client-to-staff ratio;

   D) At least one member of the team who is an individual in recovery from mental illness, preferably a Certified Recovery Support Specialist (CRSS) or Family Resource Developer (FRD). This staff person is a fully integrated CST member who provides consultation to the team and highly individualized services in the community, and who promotes self-determination and decision making. This requirement will go into effect October 1, 2008 to allow for recruitment and training; preferably, one team member who is an individual in recovery; and

   E) No fewer than 3 full-time equivalent staff meeting the required team components (shall include the team leader) and no more than 6 full-time equivalent staff or 8 different staff.

7) Service exclusions
When a client is receiving CST, CSI and CSR shall not be provided except under the following conditions:

   A) In accordance with an ITP to facilitate transition to and from CST services; or

   B) While a client is receiving services in a residential facility designated by the public payer for the purpose of stabilizing a
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CST is an integral part of ACT and CSI and shall not be considered a separate service for clients who receive ACT and CSI. CST services may be provided for a maximum of 30 days on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CSI.

i) Assertive community treatment (ACT)

1) ACT is an intensive integrated rehabilitative crisis, treatment and rehabilitative support service for adults (18 years of age and older) provided by an interdisciplinary team to individuals with serious and persistent mental illness or co-occurring mental health and alcohol/substance abuse disorders. The service is intended to promote symptom stability and appropriate use of psychotropic medications, as well as restore personal care, community living and social skills.

2) Service Activities and Interventions
The ACT team shall assume responsibility for assisting the client to achieve improved community functioning by providing:

A) Comprehensive assessment;

B) Individualized treatment and recovery planning;

C) Service coordination;

D) Crisis assessment and intervention;

E) Symptom assessment and management;

F) Supportive counseling and psychotherapy;

G) Medication prescription, administration, monitoring and documentation;

H) Dual diagnosis substance abuse services;
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I) Services that support work and education related recovery goals
   Work and education related services;

J) Activities of daily living, including residential supports;

K) Social/interpersonal relationship and leisure time skill building;

L) Peer support services;

M) Environmental and other support services; and

N) Family psychoeducation.

3) Program requirements

A) ACT shall be provided face-to-face, by telephone or by video conference.

B) ACT services shall be available 24 hours per day, 7 days per week, with emergency response coverage, including psychiatric coverage. Crisis services shall be available 24 hours per day, 7 days per week.

C) A minimum of 75% of all team contacts shall occur in natural settings out of the office.

D) A minimum of 3 contacts per week shall be provided to most ACT clients and all clients shall receive a minimum of 4 face-to-face contacts per month.

E) The ACT team shall conduct organizational staff meetings at least 4 times per week at regularly scheduled times, according to a schedule established by the team leader.

4) Eligibility criteria

A) Adults who require assertive outreach and support in order to remain connected with necessary mental health and support services and to maintain stable community living and who have not
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benefited from traditional services and modes of delivery as evidenced by any of the following:

i) Multiple and frequent psychiatric inpatient readmissions;

ii) Excessive use of crisis/emergency services with failed linkages;

iii) Chronic homelessness;

iv) Repeat arrests and incarcerations;

v) Client has multiple service needs requiring intensive assertive efforts to ensure coordination among systems, services and providers;

vi) Client exhibits functional deficits in maintaining treatment continuity, self-management of prescription medication, or independent community living skills; or

vii) Client has persistent or severe psychiatric symptoms, serious behavioral difficulties, a mentally ill/substance abuse diagnosis, and/or high relapse rate.

B) DHS shall authorize ACT services for eligible individuals.

5) Staff qualifications

A) Each ACT team shall be approved by the public payer or its designee.

BA) Each ACT team shall consist of at least 6 full-time equivalent staff. The psychiatrist and program assistant shall not be counted toward meeting the 6 full-time equivalent requirement. All teams are required to minimally consist of:

i) A full-time team leader who is the clinical and administrative supervisor of the teams and also functions as
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an ACT clinician. The team leader shall be a licensed clinician;

ii) A psychiatrist who works on a full or part-time basis for a minimum of 10 hours per week for every 60 enrolled clients. With a waiver by the public payer, an Advanced Practice Nurse may substitute for up to half of the psychiatrist’s time;

iii) A full-time registered nurse who provides services to all ACT team enrollees and who works with the ACT team to monitor each client’s clinical status and response to treatment. The registered nurse functions as a primary practitioner on each ACT team for a caseload of clients. Existing ACT providers may use an LPN with 2 years experience in mental health services as part of an ACT team until July 1, 2009. After that date, a registered nurse is required as a member of the ACT team. New ACT providers shall be required to utilize an RN on all ACT teams;

iv) Four full-time staff who work under the supervision of a licensed clinician and function as primary practitioners for a caseload of clients and who provide rehabilitation and support functions; and

v) A program/administrative assistant who is responsible for organizing, coordinating and monitoring all non-clinical operations of ACT.

CB) At least one of the members of the core team shall have special training and certification in substance abuse treatment and/or treating clients with co-occurring mental health and substance abuse disorders.

DC) At least one of the members of the team shall be an individual in recovery from mental illness, preferably a Certified Recovery Support Specialist (CRSS). This staff person is a fully integrated ACT team member who provides consultation to the ACT team.
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and highly individualized services in the community, and who promotes self-determination and decision making.

ED) At least one member of the core team shall have special training in rehabilitation counseling, including vocational, work readiness and educational support.

FF) Each team shall be expected to maintain a staff to client ratio of no more than one full time equivalent staff per 10 clients, which shall not include the psychiatrist and program assistant. As the number of clients increase, ACT teams shall add staff to maintain the required ratio.

6) Services may be provided following a determination of eligibility for ACT services and may commence prior to the completion of a mental health assessment and the ITP when immediate assistance is needed to obtain food, shelter or clothing.

7) Case management is an integral part of ACT and shall not be considered a separate service.

7A) Service exclusions: When a client is receiving ACT, other Part 132 services shall not be provided except under the following conditions:

A) In accordance with an ITP to facilitate transition to and from ACT services; and

B) While a client is admitted to a residential facility designated by the public payer for the purpose of stabilizing a crisis for a maximum of 30 days, receiving community support residential services to stabilize a crisis.

j) Psychosocial Rehabilitation

1) Psychosocial rehabilitation services are facility-based rehabilitative skill-building services for adults age 18 and older with serious mental illness or
co-occurring psychiatric disabilities and addictions. The focus of treatment interventions includes skill building to facilitate independent living and adaptation, problem solving and coping skills development. The service is intended to assist clients' ability to:

A) Live as independently as possible;

B) Manage their illness and lives with as little professional intervention as possible; and

C) Achieve functional, social, educational and vocational goals.

2) Psychosocial rehabilitation services shall include the following service interventions and activities to assist the client in achieving improved community functioning:

A) Individual or group skill building activities that focus on the development of skills to be used by clients in their living, learning, social and working environments, which includes skill development for:

   i) Socialization, communication, adaptation, problem solving and coping;

   ii) Self-management of symptoms or recovery;

   iii) Concentration, endurance, attention, direction following, planning and organization, prevocational and work readiness; and

   iv) Establishing or modifying habits and routines; pre-educational and education readiness;

B) Cognitive behavioral intervention;

C) Interventions to address co-occurring psychiatric disabilities and substance abuse;
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D) Promotion of self-directed engagement in leisure, recreational and community social activities; and

E) Client participation in setting individualized goals and assisting his or her own skills and resources related to goal attainment.

3) Program requirements

A) Psychosocial rehabilitation services shall be provided in an organized program through individual and group interventions;

B) Psychosocial rehabilitation services shall be available at least 25 hours per week and on at least 4 days per week. A maximum of 5 hours of the scheduled 25 hours may include non-group, individual activities;

C) Services may be provided during day, evening and weekend hours;

D) Each psychosocial rehabilitation services provider shall designate a staff member to assist in assessing client needs and progress toward achievement of treatment goals and objectives.

4) Staff qualifications

A) Each psychosocial rehabilitation program shall have a clinical supervisor or program director who is at least a QMHP;

B) PSR services shall be provided by at least an RSA;

C) The clinical supervisor or program director shall be on-site at least 50 percent of the time. If a provider has multiple sites, the clinical supervisor or program director must be able to document a consistent schedule that includes on-site time at each location;

D) When the clinical supervisor is not physically on-site, the clinical supervisor or designated QMHP shall be accessible to psychosocial rehabilitation staff;
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E) Each psychosocial rehabilitation program shall include at least one staff person with documented experience or training to provide services and interventions to clients with co-occurring psychiatric and substance abuse disorders; and

F) The staffing ratio for groups shall not exceed one full-time equivalent staff to 15 clients.

5) **Service exclusions**
   Psychosocial rehabilitation shall not be provided in combination with any of the following services:
   
   A) **ACT**;
   
   B) Intensive Outpatient; or
   
   C) Hospital-Based Psychiatric Clinic Service Type BA.

6) **Psychosocial rehabilitation may be provided on an individual basis and in accordance with an ITP to facilitate transition to and from ACT services.**

k) Mental health intensive outpatient services are scheduled group therapeutic sessions made available for at least 4 hours per day, 5 days per week.

1) Mental health intensive outpatient services are for clients at risk of, or with a history of, psychiatric hospitalization who currently have ITP objectives to reduce or eliminate symptoms that have, in the past, led to the need for hospitalization.

2) Services shall be provided by at least a QMHP.

3) Mental health intensive outpatient services shall be provided with a staff to client ratio that does not exceed 1:8 for adults and 1:4 for children and adolescents. For purposes of this subsection (k) only, a child or adolescent is defined as any individual who is 17 years of age or younger.

4) Services shall be provided on a face-to-face or video conference basis.

l) **Comprehensive mental health services**
1) Comprehensive mental health services are an array of services as described in Subpart C that have been approved by the public payer. One or more of these services is provided on a daily basis in order to restore or maintain the client's emotional or behavioral functioning to a level determined to be necessary for his/her successful functioning in a family, school, or community.

2) Comprehensive mental health services require that at least one of the allowable services in Subpart C is provided each day. Each service must be provided in accordance with the requirements of this Part for the respective service.

3) Comprehensive mental health services shall be provided by individuals possessing the required qualifications for each discrete service.

m) Short-term diagnostic and mental health services

1) Short-term diagnostic and mental health services are an array of services, as described in Subpart C, that have been approved by the public payer. One or more of these services is provided on a daily basis in order to assess, restore or maintain the client's emotional or behavioral functioning necessary to be at a level determined to be appropriate for his/her successful functioning in a family, school or community.

2) Short-term diagnostic and mental health services shall last no more than 45 days. One extension of an additional 45 days may be authorized, in writing, by an LPHA.

3) Short-term diagnostic and mental health services require that at least one of the allowable services in Subpart C be provided each day. Each service shall be provided in accordance with the requirements of this Part for the respective service.

4) Short-term diagnostic and mental health services shall be provided by individuals possessing the required qualifications for each discrete service.

(Source: Amended at 32 Ill. Reg. 9981, effective July 1, 2008)
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NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Appeals and Hearings

2) Code Citation: 89 Ill. Adm. Code 510

3) Section Number: Adopted Action:
   510.10 Amendment

4) Statutory Authority: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]

5) Effective Date of Amendment: June 26, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated is on file in the agency's principal office and is available for public inspection.

9) Notices of Proposal Published in the Illinois Register: 32 Ill. Reg. 1219; February 1, 2008

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

11) Differences between Proposal and Final Version: In Section 510.10(j), changed "Health" to "Healthcare".

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

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rule affects the Vocational Rehabilitation (VR) program. It repeals definitions in Section 510.10 and places them in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules. This rulemaking also updates terms used in this Section.
16) Information and questions regarding this adopted amendment shall be directed to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 510
APPEALS AND HEARINGS

Section
510.5 Scope and Purpose
510.10 General Information
510.20 What May Be Appealed
510.30 What May Not Be Appealed
510.40 Grievant Rights
510.50 DHS-ORS Rights
510.60 Service Notice
510.70 Level I Hearings (Repealed)
510.80 Request for a Hearing
510.90 Impartial Hearings Officers
510.100 Informal Resolution Conference
510.103 Mediation Process for the Vocational Rehabilitation Program
510.105 Conduct of Hearings
510.110 Associate Director's Review for Residential/Training Programs for Persons with Visual Impairments
510.115 Associate Director's Decision for Hearings Regarding a Blind Vendor
510.120 Exhaustion of Administrative Remedies

AUTHORITY: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

Section 510.10 General Information

a) Definitions

For the purposes of this Part, the following terms shall have the following meanings:

"Associate Director" means the Associate Director of the Office of Rehabilitation Services within the Department of Human Services (DHS-ORS).

"Client Assistance Program" (CAP) means a program funded by the federal Rehabilitation Act to provide assistance in informing and advising all customers and applicants of all available benefits under the federal Vocational Rehabilitation (VR) Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. CAP may also serve customers of the Home Services Program. CAP services can include assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the customer's rights under the Act.

"Customer" means any individual who has requested, been referred to, applied for, or is receiving services from DHS-ORS (except from the Bureau of Disability Determination Services), or, as appropriate, a parent, family member, guardian, advocate or duly authorized representative of the customer.

"DHS-ORS" means the Department of Human Services—Office of Rehabilitation Services and does not include any contractor, grantee, nominee agency, or service provider.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650—(Vending Facilities Program for the Blind), who has been aggrieved by any action or inaction by DHS-ORS.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in Section 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau Administrative Hearings, who is responsible for communicating with grievants about their appeal requests,
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docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.

"Impartial Hearing Officer" means the individual appointed to conduct the hearing as set forth in Section 510.90.

"Inaction" means the failure of DHS-ORS to act within the time lines specified by the program to which a customer has applied for services to make an eligibility determination or to act on a request for any change in services unless an extension of time has been agreed to in writing by the customer or necessitated by the VR customer's participation in a trial work period.

"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS-ORS, as set forth in Section 510.100.

"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.

"Personal representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings contained in this Part, as set forth in subsection (b)(3) of this Section and Section 510.100(d).

"Schools" means the three State Schools operated by DHS-ORS: Illinois Center for Rehabilitation and Education Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.

"Services" means services provided directly or purchased by DHS-ORS as set forth in 89 Ill. Adm. Code Chapter IV, Subchapters b (Vocational Rehabilitation (VR)), c (Vocational Related Programs), d (Home Services Program (HSP)), and e (Specialized Services for the Visually Impaired (CRSBVI)).

"Working Days" means Mondays through Fridays, excluding State established holidays or days on which government offices are closed by order of the Governor.

b) General Provisions
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a) A grievant who is not satisfied with an action taken by DHS-DRS, or with the failure of DHS-DRS to take action, is entitled to a hearing. A customer of the Vocational Rehabilitation program may also request mediation.

b) Any and all notices and communications to DHS-DRS made pursuant to this Part should be in writing. Nonwritten communications will be accepted if the information required in subsection (b)(6) of this Section is provided. All nonwritten communications shall be documented by DHS-DRS.

c) A grievant may appoint a representative in accordance with Section 510.40(e)(2), who may exercise any right of the grievant on the grievant's behalf. A grievant may only designate one representative at a time. The designation must be in writing or on the record.

d) All time periods related to communications arising under this Part commence on the date of receipt (receipt is presumed 5 days after the date of postmark or on the day of delivery for hand delivered items) or, if a nonwritten form of communication, on the date of receipt.

e) A request for a hearing by any person not a "grievant" cannot be heard by DHS-DRS pursuant to this Part.

f) The request for a hearing should include the specific determination and the date of the determination or, if appealing inaction, the date the action was requested, and specific identification of any other matter that is being appealed, but if this information is not readily available to the grievant, the grievant must supply sufficient information for DHS-DRS to identify the specific action or inaction that is being appealed.

g) Should a grievant improperly request an appeal and other procedures for appeal are available, DHS-DRS will advise the grievant of the proper appeal process.

h) Failure of a grievant to follow procedures as set forth in this Part or failure to request an appeal within the specified time frames found in Section 510.80 shall result in dismissal of the appeal except if the failure to follow procedure was a result of DHS-DRS failure to provide required notice or information.

i) After a request for a hearing is filed, the grievant or DHS-DRS may initiate
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attempts to resolve the grievance informally. The grievant and the appropriate DHS-DRSORS employee may agree to resolve disputed issues, at any time during the appeals process, prior to the issuance of the hearing decision. If prior to the hearing there is mutual agreement on an issue under dispute, this will remove the need for a hearing on that issue.

J40) DHS-DRSORS, and the Department of Healthcare and Family Services Public Aid in the case of Home Services Program (HSP) hearings, will assume all administrative costs of the appeal (i.e., interpreters, pursuant to Section 510.40(b), and record, pursuant to Section 510.80(e)) but will not assume costs personally incurred by the grievant because of the proceeding (e.g., legal fees, travel, witness costs, and room and board).

(Source: Amended at 32 Ill. Reg. 10047, effective June 26, 2008)
DEPARTMENT OF HUMAN SERVICES  
NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Program Definitions

2) **Code Citation:** 89 Ill. Adm. Code 521

3) **Section Numbers:**
   - 521.10 New
   - 521.20 New

4) **Statutory Authority:** Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)]

5) **Effective Date of Rulemaking:** June 26, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Notice of Proposal Published in the Illinois Register:** 32 Ill. Reg. 1226; February 1, 2008

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

11) **Differences between proposal and final version:** Made several non-substantive grammatical changes.

   In Section 521.10, deleted "Subchapter b".

   In Section 521.20, added the definition "Act" means the Disabled Persons Rehabilitation Act [20 ILCS 2405].

   In Section 521.20, under "Client Assistance Program" add "of 1973 (VR Act) (29 USC 701 et seq.)" after "Rehabilitation Act", and deleted "federal Vocation Rehabilitation (VR)" before "VR Act".

   In Section 521.20, under DHS, added "Illinois" before "Department".
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In Section 521.20, added a definition for "Director" means the Director of the Division of Rehabilitation Services.

In Section 521.20, added "VR Act" means the federal Rehabilitation Act of 1973 (29 USC 701 et seq.).

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

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rule affects the Vocational Rehabilitation (VR) program. It repeals definitions in Section 510.10 and places all VR definitions in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules. This rulemaking also updates terms used in this Section.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Rules begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 521
PROGRAM DEFINITIONS

Section
521.10  Purpose
521.20  Definitions

AUTHORITY: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].


Section 521.10  Purpose

The definitions enumerated in this Part apply to the following Parts of 89 Illinois Administrative Code, Chapter IV:

a) 89 Ill. Adm. Code 510, Appeals and Hearings
b) 89 Ill. Adm. Code 530, Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies
c) 89 Ill. Adm. Code 553, Assessment for Determining Eligibility and Rehabilitation Needs
d) 89 Ill. Adm. Code 557, Application
e) 89 Ill. Adm. Code 562, Customer Financial Participation
f) 89 Ill. Adm. Code 567, Comparable Benefits
g) 89 Ill. Adm. Code 572, Individualized Plan for Employment (IPE)
h) 89 Ill. Adm. Code 590, Services
Section 521.20 Definitions

"Act" means the Disabled Persons Rehabilitation Act [20 ILCS 2405].

"Advocacy" means pleading an individual's cause or speaking or writing in support of an individual that may include representation before public and/or private entities on the behalf of one's self, another individual, or a group of individuals.

"Center for Independent Living" or "CIL" means a consumer-controlled, community based, cross-disability, nonresidential, private not-for-profit agency that is designed and operated within a local community by individuals with disabilities and that provides an array of independent living services.

"Client Assistance Program" or "CAP" means a program funded by the federal Rehabilitation Act of 1973 (VR Act) (29 USC 701 et seq.) to provide assistance in informing and advising all customers and applicants of all available benefits under the VR Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. CAP may also serve customers of the Home Services Program. CAP services can include assistance and advocacy in pursuing legal, administrative or other appropriate remedies to ensure the protection of the customer's rights under the Act.

"Comparable Benefit" means a service that is available at the time the service is needed by a customer and is used to determine eligibility (see 89 Ill. Adm. Code 553) or to achieve the vocational goal and objectives specified in the customer's Individualized Plan for Employment (IPE) (see 89 Ill. Adm. Code 572) that, when provided to DHS-DRS customers by a public or private agency or agencies other than DHS-DRS, offset costs that would otherwise be paid by DHS-DRS or the customer.

"Competitive Employment Outcome" means full-time or part-time work in the competitive labor market in an integrated setting, for which the customer is compensated with the customary wage and level of benefits, but not less than the minimum wage.
"Confidential Information" means all closed, active and future records and conversations (including Teletypewriter/Telecommunication Devices for the Deaf (TTY) and Nextalk) kept by DHS-DRS concerning the customer's program of services. Printouts from TTY conversations must be destroyed upon completion and documentation of the call.

"Customer" means a person who has requested, been referred for, is receiving, or has received any DHS-DRS services, including a student at a DHS-DRS school.

"Customer Financial Analysis" means a calculation using form IL 488-0265, developed by DHS-DRS to determine the customer and family financial participation.

"Customer Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer and/or his or her family wish to contribute to the cost of services.

"Dependent" means an individual who receives half or more of his or her support from his or her family; however, the dependency of an individual receiving training service at an institution that participates in the federal assistance program shall be verified by information contained in the Free Application for Federal Student Aid (FAFSA).

"DHS" means the Illinois Department of Human Services.

"DHS-DRS" means the Illinois Department of Human Services-Division of Rehabilitation Services.

"Director" means the Director of the Division of Rehabilitation Services.

"Employee" means any person employed by DHS-DRS to participate in the delivery of DHS-DRS programs. The term shall also include supervisory level personnel and others in management positions.

"Extended Services" means services that are needed over an extended period of time to maintain a customer with a most significant disability who had
participated in the Supported Employment Program. Extended services include both paid and unpaid services.

"Family", for purposes of identifying individuals included in the family when completing the Customer Financial Analysis, shall include the customer and all other family members. A family member is anyone who resides in the same household and is related to the customer by blood or marriage or has a close interpersonal relationship with the customer.

"Financial Contribution" means the amount of DRS' payment for services that are needed to determine eligibility or to assist in achieving an employment outcome.

"Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services, and the amount of any voluntary contributions the customer and/or the customer's family wishes to contribute to the cost of services.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650 (Vending Facilities Program for the Blind), who has been aggrieved by any action or inaction by DHS-DRS.

"Guardian" means the person appointed by a court as the guardian of the person of a minor or an adult.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in 89 Ill. Adm. Code 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau of Administrative Hearings, who is responsible for communicating with the grievant about the appeal requests, docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.

"Impartial Hearing Officer" means the individual appointed to conduct the hearing (see 89 Ill. Adm. Code 510.90).

"Inaction" means the failure of DHS-DRS to act within the time lines specified by the program rules.
"Income" means all earned and other income from all sources, including all types of public support; wages, tips, disability payments, Worker's Compensation, interest or dividends from investments, savings, trust funds, certificates of deposit, etc.; child support, spousal support, income from rental and leased property; and private sources. The value of readily available assets (i.e., cash-on-hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not be considered as income for the purpose of completion of the Customer Financial Analysis, unless those assets have been established for the support or training of the customer.

"Independent Living Core Services" means the minimum services an organization must provide to be considered a CIL. These services are information and referral services, independent living skills training, peer counseling, including cross-disability peer counseling, and individual and system advocacy.

"Independent Living Plan" or "ILP" means a written plan that outlines the Independent Living Services that are to be provided to a customer determined eligible to receive Independent Living Services. The ILP must be jointly developed by the CIL and the customer, who will receive Independent Living Services. An ILP must be developed for each customer who receives Independent Living Services unless the customer specifically signs a statement waiving his or her rights to have an ILP.

"Independent Living Services" means services in addition to the Independent Living Core Services provided by a CIL that DHS would take into consideration when approving funding or continued funding for a CIL.

"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS-DRS, as set forth in 89 Ill. Adm. Code 510.100.

"Informed Choice" means an interactive process between DHS-DRS and the customer that provides sufficient, objective information and options that are designed to empower the customer in selecting services, providers and outcomes.

"Integrated Setting" means a setting typically found in the community in which customers interact with non-disabled individuals other than individuals who are providing service to the customer. With respect to an employment outcome, an integrated setting means a setting typically found in the community in which the
customer interacts with non-disabled individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

"Job Coaching" means a method of providing ongoing support services through the use of a worker known as a "job coach" who is present with the customer at the job site. These workers provide a variety of training, monitoring and support functions to customers receiving supported employment services.

"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.

"Natural Supports" mean unpaid assistance provided in the work setting to a customer receiving supported employment services.

"Ongoing Support Services" means support services that are provided over a time-limited period that are designed to assist a customer with a most significant disability to maintain employment in a supported employment setting. Ongoing support services are provided in accordance with a support reduction schedule as described in the customer's IPE.

"Order of Selection" means the process that determines the priority in which customers are served, based on the categories listed in 89 Ill. Adm. Code 553.130.

"Parent" means either a natural or adoptive parent, except those whose parental rights have been terminated voluntarily or by order of a court, or otherwise restricted by order of a court.

"Personal Representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings of a hearing.

"Placement" means services necessary to assist a customer in obtaining employment in his or her chosen occupational area. Placement services shall include, but not be limited to: interviewing skills training; resume preparation; interview preparation; referral to other agencies and prospective employers; and identification of prospective employers.
"Post-employment Services" means a VR service provided to a customer, not lasting more than 6 months, to maintain, regain or advance in employment.

"Post-school Activities" means vocationally oriented activities undertaken by a client/student after he or she leaves the secondary education system. These activities may include: post-secondary education; vocational training; integrated employment, including supported employment; continuing and adult education; VR services; and community participation.

"Proof of Income" means the portion of the most recent tax return that contains the adjusted gross income and the signature of the person submitting the return. Proof of income must be provided for each individual included in the definition of family. An estimated annual income will be calculated based on current wage records if an annual federal tax return has not yet been completed or if the financial status has significantly changed since the last submitted tax return.

"Rehabilitation Closure" means a closure taken on a customer's case when he or she was provided substantial services over an extended period of time that enabled the customer to achieve a successful employment outcome.

"Rehabilitation Services Administration" or "RSA" is a division under the U.S. Department of Education that administers the federal VR program.

"Representative" means an attorney, CAP representative or other individual designated by the customer who is authorized to act on the customer's behalf.

"Residency" means proof of residency as identified under 89 Ill. Adm. Code 557.15. Eligible individuals who are a resident of the State of Illinois must be available to plan, discuss and implement services through an IPE. Individuals from other states who are attending training programs in Illinois are considered residents of their home state.

"Schools" means the three State Schools operated by DHS-DRS: the Illinois Center for Rehabilitation and Education-Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.

"Secondary Transitional Experience Program" or "STEP" means a program of transition services provided through cooperative agreement of DHS-DRS and a Local Educational Agency (LEA).
"Services" means the services provided by and through DHS-DRS to customers of the Vocational Rehabilitation program and as described in 89 Ill. Adm. Code 590 (Services).

"Standard Budget Allowance" or "SBA" means a figure equal to 70% of the State Median Income established by the Office of Community Programs of the U.S. Department of Health and Human Services that are published annually in the Federal Register.

"State Plan for Independent Living" means the plan jointly developed by DHS and the Statewide Independent Living Council (SILC) (see 89 Ill. Adm. Code 515) and approved by the Director and the Chairperson of SILC, which is submitted for review and approval by RSA. The State Plan includes outlines for services, goals and objectives of the DHS-DRS Independent Living Program, as well as the plan for Independent Living Services throughout the State, and is the basis for Part B Funds received from RSA.

"Statewide Independent Living Council" or "SILC" means the council established pursuant to the VR Act and the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a] and governed by 89 Ill. Adm. Code 515.

"Successful Outcome" means, with respect to a customer:

- entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;
- satisfying the vocational outcome of supported employment; or
- satisfying any other vocational outcome recognized by RSA.

"Support Reduction Schedule" means a planned method of gradual reduction in the amount of ongoing support services provided to a customer receiving supported employment services. The purpose of the support reduction schedule is to reduce reliance on supports during the course of the customer's participation in supported employment services to the greatest degree possible while maintaining the customer in employment, and to assist the customer in making a transition to extended services.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED RULES

"Supported Employment" means competitive employment in an integrated setting with ongoing support services for customers with the most significant disabilities:

for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of their disability; and

who, because of the nature of their disabilities, need intensive supported employment services in order to perform this work.

"Supported Employment Services" means ongoing services needed to support and maintain an individual with the most significant disability in supported employment. These services are provided for a period of time not to exceed 18 months, unless, under special circumstances, the time is extended to achieve the rehabilitation objectives identified in the IPE.

"Time-limited Services", in the context of supported employment services, means services that are provided for a period of no more than 18 months in accordance with a support reduction schedule. Under special circumstances this time period may be extended with the agreement of the customer and the counselor when an extension is needed to achieve the employment outcome.

"Transition" means a coordinated set of services for a customer/student, usually enrolled at the secondary education level, designed to promote movement from school to employment.

"Transitional Employment" means a series of temporary job placements in competitive work, in an integrated work setting with ongoing support services for individuals with the most severe disabilities due to mental illness.

"Un-served" or "Under-served" means groups or populations of individuals with severe disabilities living in the State that are not receiving sufficient services.

"Unusual Allowable Expenses" means expenses directly related to the customer's or other family member's disability, such as on-going medical treatment, medication, adaptive equipment, a one-time allowance for the purchase of a van or van modification and rehabilitation technology services, that are currently being paid by the customer and/or customer's family that are not paid for through insurance or any other source and/or cost associated with another family member attending post-secondary education that are paid by the family. Unusual
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED RULES

Allowable Expenses shall not be included in the customer Financial Analysis without appropriate documentation of each expense.

"VR Act" means the federal Rehabilitation Act of 1973 (29 USC 701 et seq.).
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies

2) **Code Citation**: 89 Ill. Adm. Code 530

3) **Section Number**: 
   
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<td>530.1</td>
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4) **Statutory Authority**: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]

5) **Effective Date of Amendment**: June 26, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in the Illinois Register**: 32 Ill. Reg. 1238; February 1, 2008

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

11) **Differences between Proposal and Final Version**: No changes were made.

12) **Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were needed.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking**: This rule affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 530.1 and places them in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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

   Tracie Drew, Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue East
   Harris Building, 3rd Floor
   Springfield, Illinois 62762

   217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 530
CRITERIA FOR THE EVALUATION OF PROGRAMS OF SERVICES IN COMMUNITY REHABILITATION AGENCIES

SUBPART A: INTRODUCTION

Section
530.1 Definitions (Repealed)
530.5 Applicable Standards
530.10 Evaluation Procedure
530.20 Recommended Procedures In Preparation For And During The On-Site Visit (Repealed)

SUBPART B: PROGRAM STANDARDS

Section
530.100 Available Programs of Service (Repealed)
530.105 Instructions for Completing the Criteria (Repealed)
530.110 Organization & Administration
530.120 Personnel (Repealed)
530.130 Programs and Services
530.140 Safety
530.150 Other (Repealed)

SUBPART C: CONTRACTS WITH COMMUNITY REHABILITATION AGENCIES

Section
530.200 Disposition of Referrals
530.230 Program Outcomes
530.240 Designated Program Week
530.250 Types of Contracts
530.260 Fiscal and Administrative Standards

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

5/5-625].


SUBPART A: INTRODUCTION

Section 530.1 Definitions (Repealed)

Competitive Employment Outcome—means full-time or part-time work in the competitive labor market in an integrated setting, for which the customer is compensated with the customary wage and level of benefits.

Extended Services—means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment.

Integrated Setting—with respect to the provision of services, integrated setting means a setting typically found in the community in which customers interact with non-disabled individuals other than individuals who are providing service to the customer; or with respect to an employment outcome, integrated setting means a setting typically found in the community in which the customers interact with non-disabled individuals.

Successful Outcome—means, with respect to a customer:

entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

satisfying the vocational outcome of supported employment; or

satisfying any other vocational outcome recognized by the Federal
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Rehabilitation Services Administration:

Supported Employment—means competitive employment in an integrated setting with ongoing support services for individuals with the most significant disabilities:

for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of their disability; and

who because of the nature of their disabilities, need intensive supported employment services in order to perform this work.

Supported Employment Services—means ongoing services needed to support and maintain an individual with the most significant disability in supported employment. Such services are provided for a period of time not to exceed 18 months, unless under special circumstances the time is extended to achieve the rehabilitation objectives identified in the customer's Individual Plan for Employment.

Work Services—means work in a non-integrated or sheltered setting for a public or private non-profit agency that provides compensation in accordance with Fair Labor Standards Act and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in work services.

(Source: Repealed at 32 Ill. Reg. 10066, effective June 26, 2008)
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Application

2) Code Citation: 89 Ill. Adm. Code 557

3) Section Number: Adopted Action:
   557.10 Amendment

4) Statutory Authority: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)]

5) Effective Date of Amendment: June 26, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: 32 Ill. Reg. 1243; February 1, 2008

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

11) Differences between Proposal and Final Version: No changes were made.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were needed.

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rule affects the Vocational Rehabilitation (VR) program. It repeals the definition of "customer" in Section 557.10 and places it in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules. This rulemaking also updates terms used in this Section.

16) Information and questions regarding this adopted amendment shall be directed to:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois  62762

217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 557
APPLICATION

Section
557.10  General Applicability
557.15  Residency
557.20  Informed Choice
557.25  Geographical Customer Assignment
557.30  Application for Vocational Rehabilitation Services
557.40  Parent or Guardian Signature
557.50  Assistance in Attaining Necessary Financial Support
557.60  Application for Services by DHS-DRS Employees, Individuals Holding Contracts with DHS-DRS, DHS-DRS Advisory Council Members, Family Members of DHS-DRS Employees or Close Friends of DHS-DRS Employees

AUTHORITY: Implementing and authorized by Sections 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].


Section 557.10  General Applicability
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

a) Rules contained within this Part are applicable to all Department of Human Services-Division Office of Rehabilitation Services (DHS-DRS) Vocational Rehabilitation (VR) customers.

b) The term "customer" shall mean any individual seeking VR services from DHS-DRS.

(Source: Amended at 32 Ill. Reg. 10071, effective June 26, 2008)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Customer Financial Participation

2) **Code Citation**: 89 Ill. Adm. Code 562

3) **Section Number**: Adopted Action
   - 562.20 Repealed

4) **Statutory Authority**: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)]

5) **Effective Date of Amendment**: June 26, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notices of Proposal Published in the Illinois Register**: 32 Ill. Reg. 1247; February 1, 2008

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

11) **Differences between Proposal and Final Version**: No changes were made.

12) **Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were needed.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking**: This rule affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 562.20 and places them in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.

16) **Information and questions regarding this adopted amendment shall be directed to:**
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois  62762

217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code?  No

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 562
CUSTOMER FINANCIAL PARTICIPATION

Section
562.10 General Applicability
562.20 Definitions (Repealed)
562.30 Financial Analysis Completion
562.40 Financial Participation
562.50 Client Emancipation (Repealed)
562.60 Consideration of Settlements from Litigation or Other Sources
562.70 Refusal to Financially Participate (Repealed)
562.80 Timing of Financial Analysis (Repealed)
562.90 Impact of Review of Financial Analysis
562.100 Exclusion for Public Aid Recipients (Repealed)
562.TABLE A Determination Table for Client Participation (Repealed)
562.APPENDIX A Standard Budget Allowances (Repealed)

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].

Section 562.20 Definitions *Repealed*

For the purposes of this Part, the following terms shall have the following meanings:

Customer Financial Analysis (IL 488-0265) (Financial Analysis)—the form developed by DHS-DRS to determine customer and family financial participation.

Customer Financial Participation—the amount of money, as determined by the completion of the Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer and/or his/her family wish to contribute to the cost of services.

Dependent—a customer who receives half or more of his/her support from the family; however, customers receiving training service at an institution that participates in the federal assistance program, dependency of the customer shall be verified by information contained in the Free Application for Federal Student Aid (FAFSA).

Family—for the purpose of identifying those individuals included in the family when completing the Financial Analysis, the term "family" shall include the customer and all other family members. A family member is anyone who resides in the same household and is related to the customer by blood or marriage or has a close interpersonal relationship with the customer.

Income—all earned and other income from all sources, including all types of public support; wages, tips; disability payments; Workers' Compensation; interest or dividends from investments; savings, trust funds, certificates of deposit, etc.; child support, spousal support; income from rental and leased property; and private sources. The value of readily available assets (i.e., cash-on-hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not be considered as income for the purpose of completion of the Financial Analysis, unless those assets have been established for the support or training of the customer.

Proof of Income—the portion of the most recent tax return that contains the adjusted gross income and the signature of the person submitting the return. Proof of income must be provided for each individual included in the definition of
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

family. An estimated annual income will be calculated based on current wage records if an annual federal tax return has not yet been completed or if the financial status has significantly changed since the last submitted tax return.

Services—those services provided by and through DHS-DRS to customers of the Vocational Rehabilitation Program VR and as described at 89 Ill. Adm. Code 590—Services.

Standard Budget Allowance (SBA)—a figure equal to 70% of the State Median Income figures established by the Office of Community Programs of the United States Department of Health and Human Services that are published annually in the Federal Register.

Unusual Allowable Expenses—expenses directly related to the customer's or other family member's disability, such as ongoing medical treatment, medication, adaptive equipment, a one-time allowance for the purchase of a van or van modification and rehabilitation technology services, that are currently being paid by the customer and/or customer's family that are not paid for through insurance or any other source and/or cost associated with another family member attending post-secondary education that are paid by the family. Unusual Allowable Expenses shall not be included in the customer Financial Analysis without appropriate documentation of each expense.

(Source: Repealed at 32 Ill. Reg. 10075, effective June 26, 2008)
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Individualized Plan for Employment (IPE)

2) Code Citation: 89 Ill. Adm. Code 572

3) Section Numbers: 
   
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<tr>
<td>572.50</td>
<td>Amendment</td>
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<td>572.200</td>
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4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)]

5) Effective Date of Rulemaking: June 26, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.


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

11) Differences between proposal and final version: Some non-substantive grammatical 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 any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Supported employment is one of the services provided by the vocational rehabilitation program. The new language outlines how supported employment services shall be documented on the Individualized Plan for Employment. Section 572.200 is being repealed because we are no longer required to report this information due to the implementation of the Ticket to Work Program.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

    Tracie Drew, Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue East
    Harris Building, 3rd Floor
    Springfield, Illinois  62762

    217/785-9772

17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

The full text of the Adopted Amendments begins on the next page:
PART 572
INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

Section
572.10 General Applicability
572.20 Commencement of the IPE
572.30 Purpose of the IPE
572.40 Coordination of the IPE with an Individualized Educational Program (IEP)
572.50 IPE Development and Content
572.60 Format of the IPE
572.70 Services to Families
572.80 IPE Amendments
572.90 Notice of Changes to the IPE
572.100 Case File Documentation
572.110 Review of IPE
572.200 Reporting of Customer Participation (Repealed)

AUTHORITY: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].


Section 572.50 IPE Development and Content

a) The IPE must be developed, agreed to and signed by the customer, or, as appropriate, the customer's parent, family member, guardian, advocate, or
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

authorized representative, and approved and signed by the counselor. The IPE shall be developed and implemented in a manner that affords the customer the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational services to be provided, the provider of the services and the methods used to provide services.

b) The IPE must contain the following:

1) a statement of the specific employment outcome that is chosen by the customer based on the assessment of rehabilitation needs (89 Ill. Adm. Code 553.100), including an assessment of the customer's career interests. The goal shall be, to the maximum extent possible, an employment outcome in an integrated setting;

2) timelines for the initiation of the services and for the achievement of the employment outcome;

3) the customer's rights and remedies, including filing of an appeal under 89 Ill. Adm. Code 510;

4) a description of the Client Assistance Program (CAP), its services, and how to contact CAP;

5) a statement of the specific VR services to be provided;

6) identification of the entity or entities that will provide VR services to the customer and how the customer will receive the specific services, including comparable benefits (e.g., by attending an on-site training program, by office visits to a medical services provider, etc.). This shall include a statement describing how service shall be provided or arranged through cooperative agreements with other service providers;

7) how progress toward achieving the employment outcome will be evaluated;

8) an assessment, and a reassessment prior to case closure, of the expected need for post-employment services. If post-employment services are to be provided, the IPE must include a description of the terms and conditions for the provision of any post-employment services, including the
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

anticipated duration of those services; and

9) a description of the terms and conditions under which services will be provided to the customer in the most integrated setting possible.

c) When the IPE includes supported employment services as defined in 89 Ill. Adm. Code 521.20, the IPE must include the elements in subsection (b), as well as the following components:

1) the specific supported employment services to be provided;

2) the number of hours the individual is expected to work by the time of transition to extended services;

3) the expected extended services needed, which may include natural supports, as well as a description of the source of the extended services;

4) a support reduction schedule that identifies the anticipated change in the level of support required by the individual during the time period covered by the IPE;

5) a description of a method for periodic monitoring of the individual in order to ensure satisfactory progress toward achievement of the hourly work target described in subsection (c)(2); and

6) a description of any job skills training that will be provided at the job.

de) The IPE must be developed as soon as possible, but no later than 90 days after the customer is determined eligible for the VR program, except when the customer is a high school student receiving transition services, in which case the IPE must be developed no later than the last semester of the year in which the student is expected to leave school.

ded) In unusual circumstances, the Chief of the Bureau of Field Services or the Bureau of Blind Services may grant an exception to the timeline in subsection (de) upon request and when an appropriate justification is provided by the counselor with acknowledgement from the customer.

(Source: Amended at 32 Ill. Reg. 10080, effective June 26, 2008)
Section 572.200 Reporting of Customer Participation (Repealed)

Counselors shall report to the Social Security Administration SSI/SSDI beneficiaries who:

a) are refusing VR services,
b) are failing to cooperate, or
c) cannot be located.

(Source: Repealed at 32 Ill. Reg. 10080, effective June 26, 2008)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Services

2) **Code Citation:** 89 Ill. Adm. Code 590

3) **Section Numbers:**
   - 590.710: Repealed
   - 590.740: Repealed

4) **Statutory Authority:** Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]

5) **Effective Date of Amendments:** June 26, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Notice of Proposal Published in the Illinois Register:** 32 Ill. Reg. 1258; February 1, 2008

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

11) **Differences between Proposal and Final Version:** No changes were made.

12) **Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were needed.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This rule affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 590.710 and 590.740 and places them in 89 Ill. Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois  62762

217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code?  No

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 590
SERVICES

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SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

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SUBPART C: TRAINING AND RELATED SERVICES

Section
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

590.200 Provision of Services
590.210 Qualification of Training Facilities/Institutions
590.220 Purpose and Types of Training
590.230 Financial Guidelines for Training Services
590.240 Graduate School Training
590.250 Choice of Training Facility/Institution
590.260 Summer School
590.270 Grades and Attendance
590.280 Health Status
590.290 On-the-Job Training
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SUBPART D: PROGRAM FOR SELF-EMPLOYMENT

Section
590.310 Provision of Services
590.315 Eligibility for Participation in the Program for Self-Employment
590.320 Program for Self-Employment
590.330 Ineligible Costs
590.350 Recovery of Tools, Equipment, Supplies and Initial Stock
590.360 Transfer of Title

SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section
590.375 Provision of Services
590.380 Vendor Requirements
590.400 Vehicle Adaptation
590.410 DHS-DRS Financial Participation in Van Adaptation
590.420 Environmental Modification
590.430 Written Agreements for Environmental Modification
590.440 Compliance with Capital Development Board Specifications

SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section
590.450 Provision of Services
590.460 Types of Services
590.470 Services
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

590.480 Qualifications for Services Provided by Individuals
590.490 Payment for Support Services Provided by Individuals and Conditions of Service Provision

SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

Section
590.500 Provision of Services (Repealed)
590.510 Definitions (Repealed)
590.520 Purpose of Equipment Loans (Repealed)
590.530 Criteria for Loan of Equipment/Aids (Repealed)
590.540 Equipment/Aids Loan Request Procedures and Approval Process (Repealed)
590.550 Duration of Loans (Repealed)
590.560 Maintenance and Return of Equipment/Aids (Repealed)
590.570 Assistance in Obtaining Permanent Equipment/Aids (Repealed)
590.580 Limitations on Available Equipment/Aids (Repealed)

SUBPART H: OTHER SERVICES

Section
590.590 Provision of Services
590.600 Transportation and Temporary Lodging
590.610 Other Goods and Services
590.620 Equipment Sets

SUBPART I: PLACEMENT

Section
590.630 Provision of Placement Services
590.640 Description of Services

SUBPART J: INCREASED COSTS

Section
590.650 Provision of Services
590.660 Increased Costs
590.670 Determination of the Need for Increased Costs
590.675 Determination of Client Financial Participation in Maintenance (Repealed)
590.680 Exceptions
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART K: POST-EMPLOYMENT SERVICES

| 590.700 | Provision of Services          |
| 590.710 | Definitions (Repealed)          |
| 590.720 | Scope of Services              |

SUBPART L: TRANSITION

| 590.730 | Provision of Services          |
| 590.740 | Definitions (Repealed)          |
| 590.750 | Secondary Transitional Experience Program (STEP) |

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].


SUBPART K: POST-EMPLOYMENT SERVICES
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

Section 590.710 Definitions (Repealed)

For the purpose of this Subpart the following terms shall have the following meanings:

**Post-employment Services**—VR services, as described in this Part, provided to a client which do not require opening of a new case file or the client to undergo a new determination of eligibility (89 Ill. Adm. Code 553) when the client's closed case file is still available.

**Rehabilitation Closure**—a closure taken on a client's case when he/she was provided comprehensive services over an extended period of time which enabled the client to achieve a successful employment outcome.

(Source: Repealed at 32 Ill. Reg. 10086, effective June 26, 2008)

SUBPART L: TRANSITION

Section 590.740 Definitions (Repealed)

For the purpose of this Subpart, the following terms shall have the following meanings:

**Post-school Activities**—vocationally oriented activities undertaken by a customer/student after he/she leaves the secondary education system. Such activities may include: post-secondary education; vocational training; integrated employment, including Supported Employment; continuing and adult education; VR services; and community participation.

**Secondary Transitional Experience Program (STEP)**—a program of transition services provided through cooperative agreement of DHS-DRS and a Local Educational Agency (LEA).

**Transition**—a coordinated set of services for a customer/student, usually enrolled at the secondary education level, designed to promote movement from school to post-school activities.

(Source: Repealed at 32 Ill. Reg. 10086, effective June 26, 2008)
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting

2) **Code Citation:** 17 Ill. Adm. Code 550

3) **Section Number:** 550.30  
**Adopted Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]

5) **Effective Date of Amendment:** June 30, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 3588; March 14, 2008

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

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No agreements were necessary

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This Part was amended to update the list of State-owned or -managed sites open for hunting and to update site-specific regulations at these sites.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

    Jack Price, Legal Counsel
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL  62702-1271

    217/782-1809

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 550
RACCOON, OPOSSUM, STRIPED SKUNK, RED FOX, GRAY FOX, COYOTE
AND WOODCHUCK (GROUNDHOG) HUNTING

Section
550.10 General Regulations
550.20 Statewide Regulations
550.30 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck
(Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30,
2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7,
2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

amendment at 5 Ill. Reg. 11593, effective October 20, 1981, for a maximum of 150 days;
emergency expired March 17, 1982; amended at 6 Ill. Reg. 10714, effective August 20, 1982;
amended at 7 Ill. Reg. 10782, effective August 24, 1983; amended at 7 Ill. Reg. 16098, effective
November 22, 1983; amended at 8 Ill. Reg. 21593, effective October 23, 1984; amended at 9 Ill.
Reg. 16204, effective October 9, 1985; emergency amendment at 9 Ill. Reg. 18151, effective
November 12, 1985, for a maximum of 150 days; emergency expired April 11, 1986; amended at
10 Ill. Reg. 16649, effective September 22, 1986; amended at 11 Ill. Reg. 9540, effective May 5,
1987; amended at 12 Ill. Reg. 11730, effective June 30, 1988; amended at 13 Ill. Reg. 10598,
effective June 19, 1989; amended at 14 Ill. Reg. 10798, effective June 20, 1990; amended at 15
Ill. Reg. 11598, effective August 2, 1991; amended at 16 Ill. Reg. 11078, effective June 30,
1992; amended at 17 Ill. Reg. 10795, effective July 1, 1993; amended at 18 Ill. Reg. 10090,
effective June 21, 1994; amended at 19 Ill. Reg. 11787, effective August 3, 1995; amended at 20
Ill. Reg. 10874, effective August 5, 1996; amended at 21 Ill. Reg. 9077, effective June 26, 1997;
amended at 22 Ill. Reg. 14836, effective August 3, 1998; amended at 23 Ill. Reg. 9066, effective
9895, effective July 17, 2001; amended at 26 Ill. Reg. 14680, effective September 20, 2002;
amended at 28 Ill. Reg. 11873, effective July 27, 2004; amended at 29 Ill. Reg. 12471, effective
DEPARTMENT OF NATURAL RESOURCES

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Section 550.30  Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.

b) For sites where hunter quotas exist and permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement and the drawing shall be held at the site. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20.

c) .22 caliber or smaller rimfire firearms permitted from sunset to sunrise unless otherwise specified.

d) Coyote and striped skunk season shall coincide with the statewide fox season unless otherwise specified.

e) No woodchuck (groundhog) hunting allowed unless otherwise specified.

f) Statewide regulations as provided for in this rule apply at the following sites (exceptions are in parentheses):

   Anderson Lake Conservation Area (all hunting to begin after the close of duck season)

   Apple River Canyon State Park

   Argyle Lake State Park

   **Banner Marsh State Fish and Wildlife Area (coyote only; coyotes can be taken with archery equipment when the site is open to archery deer hunting during archery shooting hours; coyotes can be taken with shotguns, no deer slugs allowed, on days when the site is open to upland hunting with upland shooting hours)**

   Big Bend State Fish and Wildlife Area

   Big River State Forest
DEPARTMENT OF NATURAL RESOURCES

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Cache River State Natural Area
Campbell Pond Wildlife Management Area
Cape Bend State Fish and Wildlife Area
Carlyle Lake Lands and Waters – Corps of Engineers Management Lands
Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)
Cypress Pond State Natural Area
Deer Pond State Natural Area
Devil's Island State Fish and Wildlife Area
Dog Island Wildlife Management Area
Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch)
Falling Down Prairie
Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area
Fort de Chartres Historic Site (muzzleloading firearms or bow and arrow only)
Hanover Bluff State Natural Area
Horseshoe Lake Conservation Area – Alexander County (Public Hunting Area except Controlled Hunting Area)
Johnson Sauk Trail State Recreation Area (archery only; coyote and fox only; site coyote season runs concurrently with the site archery deer season; site fox season begins when the statewide fox season opens, runs concurrently with the site archery deer season, and closes the earlier of
DEPARTMENT OF NATURAL RESOURCES

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either the statewide fox season closing or the site archery deer season closing)

Kankakee River State Park (coyote, fox, skunk and opossum may be taken during their respective seasons that fall within the archery deer season by archery only; shotgun only hunting opens the day after the close of the site upland game season or archery deer season, whichever is later, and closes with the close of the statewide fox season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at check station)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kinkaid Lake Fish and Wildlife Area

Marseilles State Fish and Wildlife Area (coyote and fox only; fox closes first Thursday after January 10; coyote open to hunting from August 1 until the first Thursday after January 10 and when other hunting seasons are open on the site; not open during spring turkey season; hunting hours are 30 minutes before sunrise until sunset; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots)

Marshall County Fish and Wildlife Area (raccoon, opossum only; season opens day after duck season)

Mazonia State Fish and Wildlife Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at the check station)

Mermet Lake State Fish and Wildlife Area (hunting limited to upland game area; hunting hours ½ hour before sunrise to ½ hour after sunset)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22 and 24 (groundhog hunting
DEPARTMENT OF NATURAL RESOURCES

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allowed) (c)

Momence Wetlands State Natural Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at check station)

Moraine View State Park (archery only; coyote only; season runs concurrently with site archery deer season)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West subunit only)

Randolph County Conservation Area

Ray Norbut State Fish and Wildlife Area

Rend Lake Project Lands and Waters

Sangamon County Conservation Area

Shawnee National Forest, Oakwood Bottoms and LaRue Scatters (season closes 7 days before opening of duck season and remains closed through the duck season; at Oakwood Bottoms non-toxic shot only)

Sielbeck Forest Natural Area

Siloam Springs State Park

Skinner Farm State Habitat Area

Spoon River State Forest (all hunters must sign-in/sign-out)

Tapley Woods State Natural Area (shotguns or muzzleloading rifles only may be used from sunset-sunrise)

Trail of Tears State Forest
DEPARTMENT OF NATURAL RESOURCES

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Turkey Bluffs State Fish and Wildlife Area

Walnut Point State Park (sign-in/sign-out required; raccoon hunting only)

Washington County Conservation Area

Weinberg-King State Park (c) (d)

Weinberg-King State Park – Scripps Unit (use of dogs for hunting coyote is not allowed)

Weinberg-King State Park – Spunky Bottoms Unit

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (coyote only; season shall coincide with archery and firearm deer season at this site; archery only during the archery deer season at this site)

Woodford County Fish and Wildlife Area (raccoon, opossum only; season opens after duck season)

g) Violation of a site-specific regulation is a Class B misdemeanor. Statewide regulations apply except that hunters must obtain a permit from the Department; where hunter quotas exist, permits are allocated as described in subsection (b); permits must be in possession while hunting; the permit must be returned by February 15 or hunter will forfeit hunting privileges at that site the following year (exceptions are in parentheses):

Beaver Dam State Park (bow and arrow only)

Chauncey Marsh (obtain permit at Red Hills State Park Headquarters)

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area (coyote only, shotgun or bow and arrow)

Copperhead Hollow State Wildlife Area (raccoon and coyote only)
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Crawford County Conservation Area

Des Plaines State Fish and Wildlife Area (coyote only, no dogs allowed; season opens the day after archery deer season closes and ends February 28; shotgun with shotshells only; site permit required)

Eagle Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

Fox Ridge State Park

Green River State Wildlife Area (skunk and coyote close the last day of February; .22 rimfire firearms permitted from 30 minutes after sunset until 30 minutes before sunrise)

Hamilton County Conservation Area

Harry "Babe" Woodyard State Natural Area

Hennepin Canal State Trail (archery only; coyote and raccoon only; season open only when the site archery deer season is open)

Hidden Springs State Forest

Horseshoe Lake State Park (Madison County) (coyote only, bow and arrow only)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (shotgun and bow and arrow only)

Iroquois County Wildlife Management Area (season opens the day after Permit Pheasant Season)

Jim Edgar Panther Creek State Fish and Wildlife Area (statewide seasons for coyote and striped skunk)

Kankakee River State Park (no rifle or handgun hunting allowed; the furbearer hunting season opens the day after the last day of the site's
DEPARTMENT OF NATURAL RESOURCES

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upland hunting seasons through statewide close of respective seasons for
furbearers except striped skunk and coyote close with fox season)

Kickapoo State Park

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management
Areas

Lincoln Trail State Park (season opens day after first firearm deer
season; closes December 20; hunting hours sunset to sunrise only; raccoon
only)

Matthiessen State Park (season closed during the site firearm or
muzzleloader deer seasons; site permit may be obtained at the Starved
Rock State Park office; hunting hours are from 30 minutes after sunset
until 30 minutes before sunrise; raccoon or opossum only; hunting south
of the Vermilion River Area only; no dogs allowed)

Mautino State Fish and Wildlife Area (archery only; coyote and raccoon
only; season open only when the site archery deer season is open)

Meeker State Habitat Area (obtain permit at Sam Parr State Park
headquarters)

Middle Fork Fish and Wildlife Management Area

Moraine View State Park (season opens the second Monday in December;
night hunting only; raccoon only)

Pyramid State Park – Captain Unit (no hunting on waterfowl refuge)

Pyramid State Park – Denmark Unit (no hunting on waterfowl refuge)

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit

Ramsey Lake State Park
DEPARTMENT OF NATURAL RESOURCES

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Sahara Woods State Fish and Wildlife Area

Saline County Fish and Wildlife Area

Sam Parr State Park

Sand Ridge State Forest (coyote and striped skunk seasons – opening of the statewide raccoon season until the day before opening of the statewide spring turkey season)

Sanganois State Fish and Wildlife Area (statewide seasons for coyote and striped skunk)

Sangchris Lake State Park (fox, coyote and striped skunk hunting only; statewide seasons for fox, coyote and striped skunk except, during central zone duck and Canada goose season, hunters pursuing waterfowl or upland game may take fox, coyote and striped skunk with shotgun only in accordance with site-specific regulations set forth in 17 Ill. Adm. Code 530 and 590)

Stephen A. Forbes State Park

Ten Mile Creek State Fish and Wildlife Area (statewide coyote, striped skunk, and groundhog hunting allowed; .22 caliber or smaller rimfire firearms permitted 24 hours a day)

Wolf Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

h) Violation of a site regulation is a Class B misdemeanor (see 520 ILCS 5/2.30).

(Source: Amended at 32 Ill. Reg. 10093, effective June 30, 2008)
1) **Heading of the Part:** Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping

2) **Code Citation:** 17 Ill. Adm. Code 570

3) **Section Number:** Adopted Action:
   - 570.40 Amendment

4) **Statutory Authority:** Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5]

5) **Effective Date of Amendment:** June 30, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 3599; March 14, 2008

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

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No agreements were necessary

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This Part was amended to update the list of State-owned and -managed sites open for hunting and to update site-specific regulations at those sites.

16) **Information and questions regarding this adopted amendment shall be directed to:**
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL  62702-1271

217/782-1809

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 570
MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK, WEASEL,
RED FOX, GRAY FOX, COYOTE, BADGER, BEAVER AND
WOODCHUCK (GROUNDHOG) TRAPPING

Section
570.10 Statewide Zones
570.20 Statewide Season Dates
570.30 Statewide Hours, Daily Limit and Possession Limit
570.35 Use of .22 Rimfire Rifles by Trappers During Deer Gun Season
570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5].

Section 570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites

a) General Regulations

1) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.

2) On areas where special Department tags are required for trappers, traps without tags attached will be subject to confiscation.

3) Trappers must stay within assigned areas.

4) For sites where permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement (publicly announced means that the information referred to will be included on the Department's Internet Home Page at http://dnr.state.il.us, published in Outdoor Illinois, provided to outdoor writers for newspapers, and placed on the Department's Toll Free Hotline) and the drawing shall be held at the site. Persons participating in the drawing must have either a current or previous year trapping license. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20. Permit applicants must submit name and address to the site prior to drawing. Permits must be in possession while trapping on the area.

5) All sites except Blanding Wildlife Area, Kinkaid Lake Fish and Wildlife Area, Mississippi River Pools 16, 17, 18, 21, 22, 24, and Rend Lake Wildlife Management Area require trappers to submit a harvest report to the site superintendent within 20 days following the close of the trapping season. Failure to report shall result in the trapper being ineligible to trap at that site for the following year.

6) Body-gripping traps with a 10-inch jaw spread or larger must be totally submerged in water when set.

7) Any person who violates the site specific regulations shall be guilty of a Class B Misdemeanor.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

8) No trapping is permitted in subimpoundments or designated waterfowl management units during duck season.

9) .22 caliber or smaller rimfire firearms permitted unless otherwise specified.

b) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses):

- Beall Woods State Park (water sets only, site permit required)
- Blanding Wildlife Area (trapping area includes the islands and associated backwater sloughs immediately upstream from Lock and Dam 12; no trapping on mainland)
- Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)
- Copperhead Hollow State Wildlife Area (site permit required)
- Kinkaid Lake Fish and Wildlife Area
- Mississippi River Pools 16, 17, 18, 21, 22, 24 (no trapping on U.S. Fish and Wildlife Service National Wildlife Refuges in Pools 21, 22 and 24)
- Pyramid State Park (water sets only)
- Ray Norbut State Fish and Wildlife Area
- Red Hills State Park (site permit required)
- Rend Lake Project Lands and Waters (water sets only)
- Sam Parr State Park (water sets only, site permit required)
- Sielbeck Forest Natural Area (water sets only)
- Siloam Springs State Park
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Weinberg-King State Park – Scripps Unit (site permit required)

Weinberg-King State Park – Spunky Bottoms Unit (site permit required)

c) Statewide regulations as provided for in this Part apply at the following sites; in addition, a permit is required; only Egg Traps®, D-P (Dog-Proof) Traps®, box traps, cage traps, and traps of similar design may be used for land sets (exceptions in parentheses):

Cache River State Natural Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area

Clinton Lake Recreation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Eldon Hazlet State Park – north of Allen Branch and west of Peppenhorst Branch only

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area

Fort de Chartres Historic Site

Harry "Babe" Woodyard State Natural Area

Horseshoe Lake Conservation Area

I & M Canal State Park

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl
DEPARTMENT OF NATURAL RESOURCES

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Management Area closed 7 days prior to duck season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kickapoo State Recreation Area

Kidd Lake State Natural Area

Lake Murphysboro State Park

Lake Shelbyville – Kaskaskia and West Okaw Management Areas (no more than 50 traps may be used per permit)

Lowden State Park – Kilbuck Creek Habitat Area

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Mermet Lake Fish and Wildlife Area

Middle Fork State Fish and Wildlife Area

Mississippi River Fish and Waterfowl Area (Pools 25, 26) (land sets accessed by land only allowed during duck season; water sets allowed after duck season closes)

Moraine Hills State Park (water sets only; only body-gripping traps with a jaw spread of 5 inches or less may be used; no more than two persons may enter drawing on a single card)

Moraine View State Park (no more than 2 persons may enter drawing on a single card)

Peabody River King Fish and Wildlife Area (east, west, and south subunits only)

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Randolph County Conservation Area
Sanganois Fish and Wildlife Area
Ten Mile Creek State Fish and Wildlife Area
Turkey Bluffs Fish and Wildlife Area
Washington County Conservation Area

d) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses); in addition, a permit is required; only Egg Traps®, D-P (Dog-Proof) Traps®, box traps, cage traps, and traps of similar design may be used for land sets; only body-gripping traps with a jaw spread of 5 inches or less, foothold traps with a jaw spread of 4½ inches or less and square body-gripping traps with a 10 inch jaw spread may be used for water sets; snares may be used for water sets:

Anderson Lake Conservation Area
Argyle Lake State Park

Banner Marsh State Fish and Wildlife Area

Beaver Dam State Park

Big Bend Fish and Wildlife Area (after the close of rabbit season foothold traps with a jaw spread of 7½ inches or less may be used for water sets)

Coffeen Lake State Fish and Wildlife Area

Coleta Ponds

Dog Island Wildlife Management Area

Giant City State Park

Hanover Bluff State Natural Area (water sets only)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Hennepin Canal Parkway including Sinnissippi Lake (trappers must register at park office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets)

Hidden Springs State Forest

Horseshoe Lake State Park – Madison County

Horseshoe Lake State Park (Gabaret, Mosenthein and Chouteau Island Units (Madison County))

Jim Edgar Panther Creek State Fish and Wildlife Area (only Egg Traps®, D-P (Dog-Proof) Traps®, box traps, cage traps, traps of similar design, and homemade dog-proof traps; homemade dog-proof traps must be designed with a leg hold trap no larger than a number two size in an enclosed wood, metal or durable plastic container with a single access opening of no larger than 1½ inch diameter, and body-gripping traps must be completely submerged)

Johnson-Sauk Trail State Park (no foothold water sets)

Jubilee College State Park

Kankakee River State Park (trappers must wear blaze orange while checking traps; no trapping adjacent to bike or horse trails; south of the Kankakee River, only dog proof type traps may be used until the close of the upland hunting season; no trapping on campground areas until closed)

Kishwaukee River State Fish and Wildlife Area (site trapping season ends on the last day of archery deer season)

Lake Le-Aqua-Na State Park

Little Rock Creek State Habitat Area

Mackinaw River State Fish and Wildlife Area (water sets only)

Marshall County Fish and Wildlife Area
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Mautino State Fish and Wildlife Area (trappers must register at the Hennepin Canal office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets)

Morrison Rockwood State Park

Pekin Lake State Fish and Wildlife Area (water sets only)

Pyramid State Park – Captain Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged)

Pyramid State Park – Denmark Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged)

Ramsey Lake State Park

Red Hills State Park

Rice Lake Fish and Wildlife Area

Rock Cut State Park

Saline County State Fish and Wildlife Area

Sam Dale Lake Conservation Area

Sahara Woods State Fish and Wildlife Area

Sangchris Lake State Park

Shabbona Lake State Park

Sparland Fish and Wildlife Area

Spoon River State Forest

Spring Lake Conservation Area (water sets only)
DEPARTMENT OF NATURAL RESOURCES

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Starved Rock/Matthiessen State Park

Stephen A. Forbes State Park

Trail of Tears State Forest

Union County Conservation Area

Weldon Springs State Park (permit required by site drawing)

e) Trapping is prohibited on all other Department-owned, -leased or -managed sites except by special permit which shall be issued by the Department when it is determined that the harvest of a species would enhance the biological balance of
the resource.

1) All regulations shall be according to species regulations as provided for in this Part.

2) Permit application information and site specific regulations shall be announced publicly by the Department through the news media by September 1 of each year.

3) Site specific regulations shall be listed on the application and permit and posted at the site.

f) Violation of site specific regulations is a Class B misdemeanor (see 520 ILCS 5/2.30).

(Source: Amended at 32 Ill. Reg. 10104, effective June 30, 2008)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Youth Hunting Seasons

2) Code Citation: 17 Ill. Adm. Code 685

3) Section Numbers: Adopted Action:
   685.20 Amendment
   685.30 Amendment
   685.80 Amendment
   685.110 Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36]

5) Effective Date of Amendments: June 30, 2008

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 Department of Natural Resource's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 4, 2008; 32 Ill. Reg. 4495

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was amended to: add language stating that youth hunters who have an "apprentice hunting license" are not required to have completed a hunter education course, correct some technical language that would exclude
a holder of an Apprentice Hunting License from participating in the Youth Deer Hunting Season, add language stating that the Connecticut Valley Arms (CVA) electronic ignition is legal to use and update the list of open sites and site-specific regulations.

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

Jack Price, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809

The full text of the Adopted Amendments begins on the next page:
Section 685.20  Statewide Deer Permit Requirements

a) Illinois resident hunters must have a current, valid "Youth Deer Hunt Permit" ($10). The Youth Deer Season is only open to Illinois residents who have not reached their 16th birthday. Hunters must have completed a State-approved Hunter Education course and have a hunting license, unless exempt, or have an
apprentice hunting license by the start of the Youth Deer Season. A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. For permit applications and other information write to:

Department of Natural Resources
Youth Deer Permit
One Natural Resources Way
P.O. Box 19227
Springfield IL 62794-9227

b) Applications shall be accepted beginning August 1 and ending on the tenth weekday in August for the Youth Deer Season in October. Applications received after the tenth weekday shall not be included in the drawing. Permits shall be allocated in a random drawing. Applications not correctly filled out shall be rejected from the random drawing. If more space is available than the number of applications received, remaining permits will be filled in random daily drawings.

c) In-person and mail-in applications shall receive equal treatment in the drawings.

d) Each applicant must apply using the official agency Youth Deer Hunt Permit Application, and must complete all portions of the form. No more than six applications per envelope shall be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications for regular firearm, muzzleloading rifle, archery, handgun, free or paid landowner/tenant permits, and youth deer season permits.

e) For the applicant to be eligible to receive a Youth Deer Season Permit ($10), applicant must be an Illinois resident and not have had his or her deer hunting privileges suspended or revoked in this State pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36].

f) Deer hunting seminars covering deer hunting safety and aspects of deer hunting will be made available to participating youths.

g) Recipients of the Youth Deer Season Hunt Permit shall record their signature on the permit and must carry it on their person while hunting.

h) Permits are not transferable. Refunds shall not be granted unless the Department
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has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.

i) A $3 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.

j) Each applicant must enclose a separate $10 check or money order payable to the Department of Natural Resources, or the application shall be returned. Applicants should not send cash with their applications. The Department shall not be responsible for cash sent through the mail.

k) Permits issued for the Youth Deer Hunt season will not be counted in the number of gun permits a person can receive for the Firearm and Muzzleloader-Only Deer Season.

l) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

m) Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 32 Ill. Reg. 10115, effective June 30, 2008)

Section 685.30  Statewide Firearm Requirements for Hunting the Youth Deer Season

a) Specifications of legal firearms and their respective legal ammunition for the Youth Deer Hunt are:

1) Shotgun, loaded with slugs only, of not larger than 10 nor smaller than 20 gauge, not capable of firing more than 3 consecutive slugs;

2) A single or double barreled muzzleloading firearm of at least .45 caliber shooting a single projectile through a barrel of at least sixteen inches in length;

3) The minimum size of the firearm projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or part of the projectile. Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including
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copper/copper alloy rounds designed for hunting) are legal ammunition.

b) The standards and specifications for use of such muzzleloading firearms are as follows:

1) A muzzleloading firearm is defined as a firearm that is incapable of being loaded from the breech end.

2) Only black powder or a black powder substitute such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading firearms that are specifically designed for their use.

3) Percussion caps, wheellock, matchlock or flint type ignition only may be used, except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.

4) Removal of percussion cap, or removal of prime powder from frizzen pan with frizzen open and hammer all the way down, or removal of prime powder from flashpan and wheel un-wound, or removal of prime powder and match with match not lit, or removal of the battery from the CVA electronic ignition muzzleloader, shall constitute an unloaded muzzleloading firearm.

c) It shall be a Class B misdemeanor (see 520 ILCS 5/2.24) to use or possess any type of firearm or ammunition in the field other than those specifically authorized by this rule while hunting white-tailed deer during the Youth Deer Hunting Season, but archery deer hunters in possession of a valid archery deer permit may hunt during this season provided that, in county or counties open to youth deer hunting, they wear the orange garments required of gun deer hunters. The otherwise lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than youth deer hunters or their supervisors shall not be prohibited during the Youth Deer Hunting Season as set in Section 685.10.

(Source: Amended at 32 Ill. Reg. 10115, effective June 30, 2008)

Section 685.80 Youth White-Tailed Deer Hunt
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Statewide regulations shall apply except as noted in parentheses at the following sites by special permit allocated through the regular statewide drawing. Shooting is allowed from elevated tree stands, except as noted in parentheses. Applicants must not have reached their 16th birthday, have completed a State-approved Hunter Education course and have a hunting license, unless exempt, by the start of the Youth Deer Season. Only one tree stand is allowed per person. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands may be set up the day before the hunt and shall be removed the day after. All tree stands must be marked with a site assigned identification number. Check-in, check-out and report of harvest is required. Violation of a site-specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.24).

- Crab Orchard National Wildlife Refuge (public hunting area only, except area north of Route 13 is closed to firearm deer hunting)
- Dixon Springs State Park
- Fort Massac State Park (first season only)
- Lake Le Aqua Na State Park (hunting from Department established ground blinds only; first season only; permits shall be antlerless only; youth hunters may purchase a $5 either sex permit after harvesting an antlerless deer; supervisors may hunt, but may only take antlerless deer)

(Source: Amended at 32 Ill. Reg. 10115, effective June 30, 2008)

Section 685.110  Youth Waterfowl Hunting

a) Permit Requirements

1) Permit reservations shall be accepted starting in September. Initial acceptance dates shall be publicly announced. Applicants must be between the ages of 10-15 inclusive on the date of the hunt.

2) Only one permit per person shall be issued for the hunt on the first weekday after December 26 other than a Monday at Horseshoe Lake State Fish and Wildlife Conservation Area (Alexander County) and Union County State Fish and Wildlife Conservation Area and on the Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 at Donnelley/DePue State Wildlife Area (3 "i" unit),
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and on the first weekend and third Saturday of the Illinois Central Zone Waterfowl season at Donnelley State Wildlife Area, and on the second Sunday in November of the Illinois Central Zone Waterfowl season at Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit.

3) The permit shall be for the use of the entire blind and it shall be the responsibility of the permit holder to bring one supervising adult who may also hunt. The supervising adult shall be criminally liable for the actions of the youth in the hunting party, and be subject to the criminal penalties provided by law. Each youth and supervising adult may be accompanied by a non-hunting guide. The maximum number of people in a blind is two hunting youth, two hunting adults and a non-hunting guide.

4) Permit reservations and transferability.

A) All duplicate permit reservations shall be rejected and the hunter shall forfeit his rights to a permit. Permits are not transferable. Previous participants are ineligible to apply for a permit.

B) For other information write to:

Illinois Department of Natural Resources
Youth Waterfowl Hunt
One Natural Resources Way
P.O. Box 19457
Springfield IL  62794-9457

5) Permits for the Illinois Youth Waterfowl Hunt will be issued from the Springfield Permit Office.

b) General Waterfowl Hunting Regulations at the Youth Waterfowl Hunting Areas

1) Hours, Permits and Stamp Charges

A) Hunting hours at Horseshoe Lake (Alexander County) and Union County are from legal opening until 12:00 Noon on the day of the Youth Waterfowl Goose Hunt. Hunting hours at Donnelley/DePue State Wildlife Area (3 "i" Unit), Banner Marsh State Fish and Wildlife Area and Spring Lake State Fish and Wildlife Area –
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Spring Lake Bottoms Unit and Snakeden Hollow State Fish and Wildlife Area are from statewide opening to 1:00 p.m. on the days of the youth waterfowl hunts.

B) At Union County State Fish and Wildlife Conservation Area and Horseshoe Lake State Fish and Wildlife Conservation Area (Alexander County) and Snakeden Hollow State Fish and Wildlife Area, hunters with Illinois Youth Waterfowl Hunt Permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held on the morning of the hunt to allocate blind sites.

C) At Donnelley/DePue State Wildlife Area (3 "i" Unit) and Banner Marsh Fish and Wildlife Area, hunters with Illinois Youth Waterfowl Hunt Permit reservations are required to check in one hour before shooting time. The blinds will be allocated by drawing. For the youth hunts other than the Illinois Youth Waterfowl Hunt, hunters with permit reservations must check in at the check station no later than one hour before shooting time or the permit is void.

D) At Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit, hunters with Illinois Youth Waterfowl Permit reservations are required to check-in at the check station no later than one hour before legal shooting time, after which time permits are void. A drawing shall be held on the morning of the hunt to allocate blind sites.

E) There is no fee for the Illinois Youth Waterfowl Hunting Permit.

2) Hunting must be done from assigned blinds only and hunters, unless authorized, shall not move from blind to blind or leave the blind and return.

3) Guns must be unloaded and encased at all times when not hunting.

4) At Union County State Fish and Wildlife Conservation Area and Horseshoe Lake State Fish and Wildlife Conservation Area (Alexander County)
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County) and Snakeden Hollow State Fish and Wildlife Area, each youth shall not possess more than 25 shells. Each adult shall not possess more than 5 shells for each Canada goose allowed in the daily bag. Hunters without their guns may leave the blind to retrieve crippled waterfowl.

5) Each youth and supervising adult may be accompanied by a non-hunting guide. The maximum number of people in a blind is two hunting youth, two non-hunting adults and a non-hunting guide.

5) At Rend Lake, hunters participating in the youth hunt must sign in and out, no entry into subimpoundments before 4:30 a.m. and must be out of subimpoundments by 2:00 p.m. A drawing will be held at 4:00 a.m. each day of the youth hunt for hunters wanting to hunt the Casey Fork impoundment. Drawing will be held at the Cottonwood Access Area.

c) Special Hunts
If, by regulation published in the Federal Register, the U.S. Fish and Wildlife Service sets any special dates for youth-only waterfowl hunting, the Department shall, by public announcement, open those Department sites that, under the circumstances prevailing at the time, the Department believes may be opened without unduly disturbing other Department programs.

d) Violations of this Section are Class B misdemeanors (see 520 ILCS 5/2.18), except that hunting prior to ½ hour before sunrise is a Class A misdemeanor with a minimum $500 fine and a maximum $5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)).

(Source: Amended at 32 Ill. Reg. 10115, effective June 30, 2008)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Crow, Woodcock, Snipe, Rail and Teal Hunting

2) **Code Citation**: 17 Ill. Adm. Code 740

3) **Section Number**: 740.20

4) **Adopted Action**: Amendment

5) **Statutory Authority**: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987)

6) **Effective Date of Amendment**: June 30, 2008

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.**

10) **Notice of Proposal Published in Illinois Register**: April 4, 2008; 32 Ill. Reg. 4505

11) **Has JCAR issued a Statement of Objection to this amendment?** No

12) **Differences between proposal and final version**: None

13) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No agreements were necessary

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

15) **Are there any amendments pending on this Part?** No

16) **Summary and Purpose of Rulemaking**: This Part was amended to update the list of sites open to hunting and to update site-specific regulations.

17) **Information and questions regarding this adopted amendment shall be directed to:**
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

The full text of the Adopted Amendment begins on the next page:
NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 740
CROW, WOODCOCK, SNIPE, RAIL AND TEAL HUNTING

Section
740.10  Statewide Regulations
740.20  Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).


Section 740.20  Regulations at Various Department-Owned or -Managed Sites

a) All the rules in 17 Ill. Adm. Code 510 apply in this Section, unless this Section is
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more restrictive. Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.20).

b) Woodcock, snipe and rail hunting; statewide regulations as provided for in this Part shall apply at the following areas (exceptions are in parentheses):

   Anderson Lake Conservation Area (closed 7 days before duck season)
   Big Bend State Fish and Wildlife Area
   Big River State Forest
   Cache River State Natural Area
   Campbell Pond Wildlife Management Area
   Cape Bend State Fish and Wildlife Area
   Carlyle Lake Lands and Waters – Corps of Engineers managed lands
   Carlyle Lake Wildlife Management Area (sub-impoundment area closes 7 days prior to the southern zone waterfowl season)
   Crawford County Conservation Area
   Cypress Pond State Natural Area
   Deer Pond State Natural Area
   Devil's Island
   Dog Island Wildlife Management Area
   Eldon Hazlet State Park (North of Allen Branch and west of Peppenhorst Branch only)
   Ferne Clyffe State Park
   Ft. de Chartres Historic Site (hunting with muzzleloading shotgun only)
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Ft. Massac State Park

Giant City State Park

Hamilton County Conservation Area (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Horseshoe Lake Conservation Area (public hunting area except controlled goose hunting area)

Iroquois County Wildlife Management Area (season closes the day before permit pheasant season; 4:00 p.m. daily closing; sign in/out required; closed to snipe hunting)

Jubilee College State Park (season coincides with Jubilee Upland season, 17 Ill. Adm. Code 530.110)

Kankakee River State Park (woodcock only; during the controlled pheasant hunting season, hunters must abide by those portions of 17 Ill. Adm. Code 530.105 and 530.110 which pertain to Kankakee River State Park)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to waterfowl season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kinkaid Lake Fish and Wildlife Area

Marseilles State Fish and Wildlife Area (woodcock only; Monday-Thursday only through October; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots)

Mermet Lake Fish and Wildlife Area

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)
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Mississippi River Pools 16, 17, and 18

Mississippi River Pools 21, 22 and 24

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West subunit only; woodcock only)

Pyramid State Park

Ramsey Lake State Park (statewide hours until rabbit season begins; then 8:00 a.m. to 4:00 p.m.)

Randolph County Conservation Area (woodcock only)

Ray Norbut State Fish and Wildlife Area

Red Hills State Park

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Rice Lake Wildlife Area (season open during teal season only; sunrise until 1:00 p.m.)

Sahara Woods State Fish and Wildlife Area

Saline County Fish and Wildlife Area

Sam Dale Lake Conservation Area (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Sam Parr State Park (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Sand Ridge State Forest (During the controlled pheasant hunting season, hunters must abide by those portions of 17 Ill. Adm. Code 530.105 and 530.110 which pertain to Sand Ridge State Forest)
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Sielbeck Forest Natural Area

Skinner Farm State Habitat Area

Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area (closes September 30)

Stephen A. Forbes State Park (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Tapley Woods State Natural Area (closed during firearm deer season)

Trail of Tears State Forest

Turkey Bluffs Fish and Wildlife Area

Union County Conservation Area (Firing Line Management Area only)

Washington County Conservation Area (woodcock only)

Weinberg-King State Park

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out required)

Wildcat Hollow State Forest

c) Woodcock, snipe and rail hunting permitted; exceptions as noted in parentheses. Hunters must obtain a permit from site office and permit must be in possession while hunting. Failure to report harvest by February 15 will result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (woodcock only; 4:00 p.m. daily closing)
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Harry "Babe" Woodyard State Natural Area (woodcock only; closes October 31)

Hidden Springs State Forest (4:00 p.m. daily closing)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (permit required)

Jim Edgar Panther Creek State Fish and Wildlife Area (hunters are restricted to the Open Units portion of the site during the controlled pheasant season, except those hunters who possess a valid Quality Unit or Controlled Unit permit)

Kickapoo State Park (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Lake Shelbyville – Eagle Creek State Park (woodcock only; 4:00 p.m. daily closing; closes opening day of site's pheasant season)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Middle Fork Fish and Wildlife Area (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (woodcock only; 4:00 p.m. daily closing; season closes the day before site's controlled pheasant season)

Newton Lake State Fish and Wildlife Area (woodcock only; closed during firearm deer season)

Pyramid State Park – Captain Unit (open to hunters with a quality upland permit, daily draw waterfowl permit and site permit)

Pyramid State Park – Denmark Unit (open to hunters with a quality
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upland permit, daily draw waterfowl permit and site permit)

Pyramid State Park – East Conant Unit (open to hunters with a quality upland permit, daily draw waterfowl permit and site permit)

Pyramid State Park – Galum Unit (permit required; must be returned by February 15)

Newton Lake Fish and Wildlife Area (woodcock only; closed during firearm deer season)

Sanganois State Fish and Wildlife Area

Ten Mile Creek Fish and Wildlife Area (non-toxic shot only for woodcock hunting in waterfowl rest areas)

d) Teal hunting; statewide regulations as provided for in this Part shall apply on the following sites, except no permanent blinds allowed except as authorized in 17 Ill. Adm. Code 590.15, 590.20, 590.40 and 590.50 (exceptions are in parentheses):

Anderson Lake Conservation Area

Blanding Wildlife Area

Cache River State Natural Area

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers managed lands (waters of Peppenhorst Branch and Allen Branch north of the buoys only)

Carlyle Lake Wildlife Management Area (teal hunting prohibited east of Kaskaskia River from the Cox's Bridge Access north to DNR property boundary)

Chain O'Lakes State Park (hunting is allowed only from numbered blind sites; the blinds need not be completed)
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Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters required)

Clinton Lake State Recreation Area (hunting in waterfowl areas East of Parnell Bridge and North of Route 54 only)

Coffeen Lake State Fish and Wildlife Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day; hunting from staked sites only; no permanent blinds; hunting by boat access only; no cutting vegetation on site; hunting north of County Road N6th only; four hunters per blind site; no fishing north of County Road N6th during this season)

Cypress Pond State Natural Area

Deer Pond State Natural Area

Des Plaines Conservation Area (hunting is allowed only from numbered blind sites; the blinds need not be completed)

Devil's Island

Dog Island Wildlife Management Area

Eldon Hazlet State Park – North Allen Branch Waterfowl Management Area

Ft. de Chartres Historic Site (hunting is allowed from anchored, portable boat blinds only)

Horseshoe Lake Conservation Area – Public Hunting Area (Alexander County)

Horseshoe Lake State Park (Madison County) (hunting is allowed only from numbered blind sites; blind builders must claim their blinds ½ hour before shooting time each day or blind is open to the public; blinds need not be completed)
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Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (permit required)

Kaskaskia River State Fish and Wildlife Area (the defined Baldwin Lake Waterfowl Rest Area is closed)

Kidd Lake State Natural Area (hunters must check in and out and report harvest each day; hunter quota filled on a first come-first served basis; cutting of vegetation is prohibited)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Areas (site permit described in subsection (c) applies)

Lake Shelbyville – Corps of Engineers Managed Lands and Waters

Lake Sinnissippi Fish and Wildlife Area (hunting is allowed only from numbered blind sites; blind builders must claim their blinds ½ hour before shooting time each day or blind is open to the public; blinds need not be completed)

Marshall State Fish and Wildlife Area – all management units

Meredosia Lake

Mississippi River Fish and Waterfowl Management Area (Mississippi River Pools 25 and 26) (blind builders must claim their blinds ½ hour before shooting time or the blind is open for that day's hunt; no hunting allowed in the designated Batchtown waterfowl rest area, Crull Hollow waterfowl rest area and Godar waterfowl rest area)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Oakford Conservation Area

Pyramid State Park – Captain Unit (permit required; must be returned by February 15; hunting not allowed in Captain Unit waterfowl rest area)
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Pyramid State Park – Denmark Unit (permit required; must be returned by February 15; hunting not allowed in Denmark Unit waterfowl rest area)

Pyramid State Park – Galum Unit (permit required; must be returned by February 15)

Ray Norbut Fish and Wildlife Area

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Rice Lake Fish and Wildlife Area (check in and check out required; sunrise until 1:00 p.m.)

Saline County Fish and Wildlife Area

Sanganois State Fish and Wildlife Area (permit required)

Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area

Stephen A. Forbes State Park (walk-in hunting in the subimpoundment only)

Ten Mile Creek State Fish and Wildlife Area (permit required)

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area (public hunting area and firing line unit only)

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out required)

Woodford Fish and Wildlife Area

e) Crow Hunting

1) Statewide regulations as provided for in this Part shall apply at the following sites (season dates in parentheses):
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Anderson Lake Conservation Area

Big Bend State Fish and Wildlife Area

Big River State Forest

Green River State Wildlife Area (January 1 through statewide closing)

Hamilton County State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (East and West Open Units)

Mississippi River Pools 16, 17, 18

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Pyramid State Park – Captain Unit (no hunting in waterfowl rest area; permit required, must be returned by February 15)

Pyramid State Park – Denmark Unit (no hunting in waterfowl rest area; permit required, must be returned by February 15)

Pyramid State Park – East Conant Unit (permit required, must be returned by February 15)

Pyramid State Park – Galum Unit (permit required, must be returned by February 15)

Ray Norbut Fish and Wildlife Area

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Sanganois State Fish and Wildlife Area (day after Canada goose season closes through statewide closing; nontoxic shot only; permit required)
NOTICE OF ADOPTED AMENDMENT

Spoon River State Forest (all hunters must sign in/sign out)

Stephen A. Forbes State Park

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out required)

2) Crow hunting permitted, exceptions as noted in parentheses. Hunters must obtain a permit from site office and permit must be in possession while hunting. Failure to report harvest by March 15 will result in loss of hunting privileges at that site for the following year:

Horseshoe Lake State Park (Madison County) (begins the day after controlled pheasant hunting closes through the end of February)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit

Sand Ridge State Forest

Ten Mile Creek Fish and Wildlife Area (non-toxic shot only for crow hunting in waterfowl rest areas)

3) All hunters must make a reasonable effort to retrieve downed birds. All crows must be removed from the site by the hunter.

(Source: Amended at 32 Ill. Reg. 10125, effective June 30, 2008)
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Trifecta

2) Code Citation: 11 Ill. Adm. Code 306

3) Section Number: Adopted Action:
   306.20 Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rulemaking: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 28, 2008; 32 Ill. Reg. 4307

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No agreements were necessary.

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

14) Are there any amendments pending on this Part? No

15) Summary and purpose of Rulemaking: This rulemaking reduces the minimum number of betting interests from eight to seven when there are two entries in a race offering trifecta wagering. A superfecta pool with two entries requires eight horses, so the trifecta should require seven horses.

16) Information and questions regarding this adopted amendment shall be directed to:
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 306
TRIFECTA

Section 306.20 Entries

a) Entries, either coupled or uncoupled, shall be allowed in a trifecta race under the following conditions:

1) one entry requires at least six betting interests at the start of the race, except, in the event of a scratch, Section 306.30(a) applies.

2) two entries require at least seven betting interests at the start of the race.

3) more than two entries shall require approval from the Stewards.
b) For stakes races with a minimum purse of $20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.

c) For stakes races with a minimum purse of $100,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.

d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of $250,000 or more.

(Source: Amended at 32 Ill. Reg. 10139, effective July 1, 2008)
ILLINOIS REGISTER

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Pick (N) Pools

2) Code Citation: 11 Ill. Adm. Code 308

3) Section Number: Adopted Action:
   308.40 Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rulemaking: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 28, 2008; 32 Ill. Reg. 4311

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.

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

14) Are there any amendments pending in this Part? No

15) Summary and purpose of Rulemaking: This rulemaking clarifies how the mutuel department will handle pricing when a race is moved off the turf to the dirt and everyone is a winner in that leg.

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

Mickey Ezzo
Illinois Racing Board
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

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ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 308
PICK (N) POOLS

Section
308.10 Pick (n)
308.20 Pool Calculations
308.30 Dead Heats
308.40 Scratches
308.50 Cancellation of Races
308.60 Carryover Cap
308.70 Mandatory Distribution
308.80 Disclosure
308.90 Pick 3 Pools

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


Section 308.40 Scratches

a) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the closing of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

b) Once wagering has closed for the first race of a Pick (n) Pool, if a race is moved from the turf course to the dirt track, then all ticket holders are considered winners for that race offer the Pick (n) Pool. The entire net pool shall be distributed as a single price pool to those whose selections finish first in the greatest number of Pick (n) contests. Any previous carryover shall not be included unless the pool has been designated as a mandatory distribution. If this occurs in any leg of a Pick (n) Pool, the carryover from previous performances shall not be included in the distribution unless the pool has been designated as a mandatory distribution.

(Source: Amended at 32 Ill. Reg. 10143, effective July 1, 2008)
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Account Wagering

2) **Code Citation:** 11 Ill. Adm. Code 321

3) **Section Numbers:**
   - 321.10  Amend
   - 321.20  Amend
   - 321.40  Amend
   - 321.80  Amend
   - 321.90  Amend

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **Effective Date of Rulemaking:** July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** March 21, 2008; 32 Ill. Reg. 4132

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR?** No agreements were necessary.

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

14) **Are there any amendments pending in this Part?** No

15) **Summary and purpose of Amendments:** This rulemaking updates the account wagering rule and makes it more compatible with the current totalisator technology currently being offered. The Gift Card Act, effective January 2008, creates a need to modify the
NOTICE OF ADOPTED AMENDMENTS

retention of dormant accounts to 5 years. The 5-year dormancy period will take effect on all account wagering venues.

This rulemaking legalizes anonymous cash cards where patrons are not required to provide information such as their name, address, or social security number. When IRS information is needed, the patron will provide it at the time of cashing.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 321
ACCOUNT WAGERING

Section 321.10 General
a) A licensee may offer a system of account wagering to its patrons whereby wagers are debited and payouts are credited to a sum, deposited in an account by the patron, and held by the licensee. The licensee shall request authorization from the State Director of Mutuels before a system of account wagering is offered.

b) The licensee shall notify the patron, at the time of opening the account, of any rules the licensee has made concerning deposits, withdrawals, cancellations, average daily balance, user fees, interest payments, provisions for closing accounts and any other aspect of the operation of the account. The licensee shall notify the State Director of Mutuels and the patron whenever rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash in the
NOTICE OF ADOPTED AMENDMENTS

The patron shall be deemed to have accepted the rules of account operations upon signature approval. Failure to accept such new rules shall result in closure of the account.

(Source: Amended at 32 Ill. Reg. 10147, effective July 1, 2008)

Section 321.20 Account Opening

a) The licensee may offer to open for its patrons:

1) daily, anonymous accounts, where balances are purged at the end of the day and any remaining balance is available as a voucher; short-term accounts that are operational only for the performance(s) during which they were opened and only at the site where they were opened, through which wagers are placed by the account holder at a self-service terminal;

2) permanent, named accounts that remain open at the end of the day, and that require the patron to provide all pertinent data; long-term accounts that are operational for all performances offered by the licensee, through which wagers are placed by the account holder at a self-service terminal operated by the licensee's totalizator operator; and

3) permanent, anonymous accounts (i.e., the new type of Cash Card account) that remain open at the end of the day, and for which no customer data is known; and voucher accounts that are operational for any performance offered by the licensee, through which wagers are placed by the account holder at any ticket issuing terminal operated by the licensee's totalizator operator.

4) voucher accounts, where the patron cashes a winning ticket and has the winnings placed on a voucher in lieu of cash. A voucher is the same as cash but payouts are not automatically credited to a sum.

b) The patron may choose to credit winning payouts in cash and may choose to close or cash-in the account at any time.

(Source: Amended at 32 Ill. Reg. 10147, effective July 1, 2008)

Section 321.40 Patron Information
Each named short-term or long-term account holder shall provide such personal information as the licensee and the State Director of Mutuels require, including an address to which communications are to be delivered. The licensee shall provide, for each short-term or long-term account holder, a confidential account number and password to be used by the patron to confirm validity of every account transaction.

(Source: Amended at 32 Ill. Reg. 10147, effective July 1, 2008)

Section 321.80 Account Operation

a) The licensee shall maintain complete records of every deposit, withdrawal, wager, cancellation and winning payout for each short-term and long-term account. Voucher accounts shall be recorded in a manner similar to a ticket. These records shall be made available to the Board upon request. The Board shall request the records when there is probable cause for such a request. Examples of instances when probable cause exists include, but are not limited to, allegations of race-fixing or wagering schemes.

b) Any account wagering system shall provide for the account holder's review and finalization of a wager before it is accepted by the licensee.

c) Cancellation of wagers placed through short- or long-term accounts shall be permitted at unmanned wagering terminals. Wagers placed through voucher accounts shall be permitted only at manned wagering terminals. Any cancellation of wager shall conform to the provisions of 11 Ill. Adm. Code 433.120. Licensees shall review wagering accounts daily to monitor for compliance. Violations shall be reported to the State Director of Mutuels within 48 hours after the occurrence.

(Source: Amended at 32 Ill. Reg. 10147, effective July 1, 2008)

Section 321.90 Account Closure

The licensee may close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period pursuant to established by the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2SS], that is 5 years after the date of issuance of license. In either case, the licensee shall refund the remaining balance of the account whenever possible.
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 10147, effective July 1, 2008)
ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

1) **Heading of the Part**: Pentafecta

2) **Code Citation**: 11 Ill. Adm. Code 324

3) **Section Numbers**: 
   - 324.10 New
   - 324.20 New
   - 324.30 New
   - 324.40 New
   - 324.50 New
   - 324.60 New

4) **Statutory Authority**: 230 ILCS 5/9(b)

5) **Effective Date of Rulemaking**: July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: March 28, 2008; 32 Ill. Reg. 4315

10) **Has JCAR issued a Statement of Objection to these rules?** No

11) **Differences between proposal and final version:**

   In Section 324.40(b)(1) – After "selecting", added "the four dead heated betting interests".

   In Section 324.40(c)(1) – After "selecting", added "the three dead heated betting interests".

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

13) **Will this rulemaking replace any emergency rules currently in effect?** Yes
14) Are there any amendments pending on this Part? No

15) Summary and purpose of Rules: This rulemaking creates a new wager in which bettors are required to properly select the first 5 finishers in a race in exact order. This rulemaking is similar to a Superfecta except you must correctly select the first 5 finishers rather than the first 4 finishers.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
312/814-5017

The full text of the Adopted Rules begins on the next page:
ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 324
PENTAFECTA

Section
324.10 Pentafecta
324.20 Pool Distribution
324.30 Scratches
324.40 Dead Heats
324.50 Minimum Fields
324.60 Entries

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

SOURCE: Adopted by emergency rulemaking at 32 Ill. Reg. 7429, effective May 1, 2008, for a maximum of 150 days; adopted at 32 Ill. Reg. 10153, effective July 1, 2008.

Section 324.10 Pentafecta

a) The Pentafecta requires selection of the first five finishers, in their exact order, for a single contest.

b) The organization licensee may re-name this wager, but shall notify the State Director of Mutuels of the name that will be used.

Section 324.20 Pool Distribution

The organization licensee may choose to distribute pools in accordance with subsection (a), (b) or (c). The organization licensee must give the Board 30 days notice if it chooses to distribute pools under subsection (b) or subsection (c), including the exact percentages it will use to determine the minor and major pools if subsection (b) is used. The racing program shall indicate when the method described in subsection (b) or subsection (c) is being used for a meet.

a) Distribution of Winnings – Option 1
The net Pentafecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

1) As a single price pool to those whose combination finished in correct sequence as the first five betting interests, but if there are no such wagers, then

2) As a single price pool to those whose combination included, in correct sequence, the first four betting interests, but if there are no such wagers, then

3) As a single price pool to those whose combination included, in correct sequence, the first three betting interests, but if there are no such wagers, then

4) As a single price pool to those whose combination included, in correct sequence, the first two betting interests, but if there are no such wagers, then

5) As a single price pool to those whose combination correctly selected the first place betting interest only, but if there are no such wagers, then

6) The entire pool shall be refunded on Pentafecta wagers for that contest.

b) Distribution of Winnings – Option 2

1) The net Pentafecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

A) As a single price pool to those whose combination finished in correct sequence as the first five betting interests, but if there are no such wagers, then

B) The net pool will be divided into two separate pools. The major pool of the net pool shall be paid as a carryover pool into the next regularly scheduled Pentafecta race. The remaining minor pool shall be paid as a Pentafecta consolation pool, which will be equally divided among those ticket holders who correctly select the first four betting interests, but if there are no such wagers, then
C) The Pentafecta consolation pool will be divided among those ticket holders who correctly select the first three interests, but if there are no such wagers, then

D) The Pentafecta consolation pool will be divided among those ticket holders who correctly select the first two interests, but if there are no such wagers, then

E) The Pentafecta consolation pool will be divided among those ticket holders who correctly select the first betting interest, but if there are no such wagers, then

F) The entire net pool shall become a carryover pool into the next regularly scheduled Pentafecta race.

2) On the last Pentafecta race on the final day of the meeting, the net pool shall be redistributed using the method described in subsection (a).

c) Distribution of Winnings – Option 3

1) The net Pentafecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

A) As a single price pool to those whose combination finished in correct sequence as the first five betting interests, but if there are no such wagers, then

B) The entire net pool shall be paid as a carryover pool into the next regularly scheduled Pentafecta race.

2) On the last Pentafecta race on the final day of the meeting, the net pool shall be redistributed using the method described in subsection (a).

d) If fewer than five betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored. If the pools are being distributed under either subsection (b) or subsection (c), any previous Pentafecta
contest's carryover will not be included in the payoff and will be retained for the next contest's carryover, and this contest's net Pentafecta pool will be distributed using the method described in subsection (a).

Section 324.30 Scratches

In the event any contestant that is not part of an entry or field is scratched, all wagers, including the scratched betting interest, shall be refunded.

Section 324.40 Dead Heats

a) If there is a dead heat for first involving:

1) contestants representing five or more betting interests, all of the wagering combinations selecting five betting interests that correspond with any of the betting interests involved in the dead heat shall share in a profit split.

2) contestants representing four betting interests, all of the wagering combinations selecting the four dead heated betting interests, irrespective of order, along with the fifth place betting interest shall share in a profit split.

3) contestants representing three betting interests, all of the wagering combinations selecting the three dead heated betting interests, irrespective of order, along with the fourth place and fifth place betting interests shall share in a profit split.

4) contestants representing two betting interests, both of the wagering combinations selecting the two dead heated betting interests, irrespective of order, along with the third place, fourth place and fifth place betting interests shall share in a profit split.

b) If there is a dead heat for second involving:

1) contestants representing four or more betting interests, all of the wagering combinations correctly selecting the four dead heated betting interests shall share in a profit split.
2) contestants representing three betting interests, all of the wagering combinations correctly selecting the three dead heated betting interests, irrespective of order, and the fifth place betting interests shall share in a profit split.

3) contestants representing two betting interests, all of the wagering combinations correctly selecting the two dead heated betting interests, irrespective of order, and the fourth place and fifth place betting interests shall share in a profit split.

c) If there is a dead heat for third involving:

1) contestants representing three or more betting interests, all of the wagering combinations correctly selecting the three dead heated betting interests shall share in a profit split.

2) contestants representing two betting interests, both of the wagering combinations selecting the two dead heated betting interests, irrespective of order, along with the fifth place betting interest shall share in a profit split.

d) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for fourth shall share in a profit split.

e) If there is a dead heat for fifth, all wagering combinations correctly selecting the first four finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fifth shall share in a profit split.

**Section 324.50 Minimum Fields**

a) Pentafecta wagering shall not be scheduled on a race unless at least nine betting interests are carded. In the event of a scratch, Pentafecta wagering on a race in which eight betting interests remain is permissible, provided there are no uncoupled entries.

b) This Section shall not be applicable to stakes races.

**Section 324.60 Entries**
a) Entries, either coupled or uncoupled, shall be allowed in a Pentafecta race under the following conditions:

   1) one entry requires at least nine betting interests at the start of the race, except, in the event of a scratch, Section 324.50(a) applies.

   2) two entries requires at least ten betting interests at the start of the race.

   3) more than two entries shall require approval from the Stewards.

b) For stakes races with a minimum purse of $20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.

c) For stakes races with a minimum purse of $100,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.

d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of $250,000 or more.
1) **Heading of the Part:** Claiming Races

2) **Code Citation:** 11 Ill. Adm. Code 510

3) **Section Number:** 510.250  
   **Adopted Action:** Amend

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **Effective Date of Rulemaking:** July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 4323; March 28, 2008

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

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** No agreements were necessary.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This rulemaking removes the mandatory 25% requirement, for the period 21 through 30 days after the claim, and permits owners to run back a claimed thoroughbred horse for the same claiming price or higher. During the 20 day period following the claim, the horse shall not start in a race in which the claiming price is less than 25% more than the price at which it was claimed.

16) **Information and questions regarding this adopted amendment shall be directed to:**
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510
CLAIMING RACES

Section
510.10 Definition
510.20 Claiming Eligibility
510.30 Form and Deposit of Claim
510.40 Errors which Invalidate Claim
510.50 Refund of Voided Claim
510.60 Prohibited Action with Respect to Claim
510.70 Horses under Lien
510.80 Affidavit May be Required
510.90 Claimant's Responsibility
510.100 Claimed Horse's Certificate
510.110 Engagements of a Claimed Horse
510.120 Protests of a Claim
510.130 Title to a Claimed Horse
510.140 Distribution of the Purse
510.150 Delivery of a Claimed Horse
510.160 Trainer Responsibility for Post-Race Tests
510.170 Excusing Claimed Horse
510.180 Stable Eliminated by Fire or Other Hazard
510.190 Entering Claimed Horse (Repealed)
510.195 Determining Eligibility Dates
510.200 Claimed Horse Racing Elsewhere
510.210 Sale of a Claimed Horse
510.220 Illinois Rules Govern Claimed Horse
510.230 Extension of Regular Meeting (Repealed)
510.240 Claiming Authorization
510.250 Claiming Price

AUTHORITY: Implementing, and authorized by Section 9(b) of, the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
Section 510.250 Claiming Price

a) For a period of 2030 days after the claim of a thoroughbred horse, it shall not start in a race in which the eligibility price is less than 25% more than the price at which it was claimed. For a period of 10 days thereafter, a thoroughbred horse is eligible to run back for the same claiming price or higher.

b) This Section shall not apply to starter handicap races.

(Source: Amended at 32 Ill. Reg. 10161, effective July 1, 2008)
ILLINOIS REGISTER

10165

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Entries, Subscriptions, and Declarations

2) Code Citation: 11 Ill. Adm. Code 1413

3) Section Number: Adopted Action:
   1413.140 Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rulemaking: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.


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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The rulemaking removes the right to declare out without a medical reason. The petitioner, Arlington Park, claims that with the installation of the synthetic racing surface, the effects of weather on the racing surface is no longer a basis to scratch a horse from a race. Under the rulemaking, scratches may only be made by permission of the stewards with reasonable cause or when a note from a veterinarian establishes a medical reason to excuse the horse from the race. This amendment would not apply to races moved off the turf.
16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1413
ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

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


Section 1413.140 Right to Declare Out

a) In purse races and overnight handicaps with more than nine interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. Owner declarations—When more than one owner expresses the desire to declare out, the right to declare out shall be
determined by lot. Declarations below nine interests may only be made by permission of the Stewards for reasonable cause or when a note from the veterinarian licensed by the Board establishes a medical reason to excuse the horse from the race. The also eligibles shall have the preference to scratch over regularly carded horses.

b) In purse races and overnight handicaps moved off the turf with more than eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. When more than one owner expresses the desire to declare out, the right to declare out shall be determined by lot. Declarations below eight interests may only be made by permission of the Stewards.

c) Horses may be scratched out of stake races not later than 45 minutes before post time of the race.

(Source: Amended at 32 Ill. Reg. 10165, effective July 1, 2008)
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Income Tax

2) **Code Citation:** 86 Ill. Adm. Code 100

3) **Section Numbers:**
   - 100.2455   New Section
   - 100.3380   Amendment
   - 100.5040   Amendment
   - 100.9700   Amendment

4) **Statutory Authority:** 35 ILCS 5/203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J) and 35 ILCS 5/1401(a); 35 ILCS 5/304(f), 1401 and 1501(a)(27); 35 ILCS 502(c)(4) and 35 ILCS 1401

5) **Effective Date of Amendments:** June 30, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.

9) **Notice of Proposals Published in Illinois Register:**
   - 32 Ill. Reg. 798, January 18, 2008
   - 32 Ill. Reg. 4574, April 4, 2008
   - 32 Ill. Reg. 6438, April 18, 2008

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

11) **Differences between proposal and final version:** The following changes were made in response to comments received during the first notice period:

    In Sections 100.3380(d)(2) and 100.3380(d)(4), added "(other than a publicly-traded partnership under section 7704 of the Internal Revenue Code)."
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

This is a consolidated rulemaking (3 proposed rulemakings have been combined into one adopted rulemaking) with 1 section being added and 3 sections being amended.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, but they were not substantive agreements.

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

14) Are there any amendments pending on this Part? Yes

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15) Summary and Purpose of Rulemaking: 100.2455 – This new Section provides guidance for taxpayers to determine the subtractions they are allowed to take from their taxable income or adjusted gross income under IITA Section 203 for expenses that are not deductible for federal income tax purposes because they are incurred in connection with income that is exempt from federal income tax, but not from Illinois income tax, or with credits allowed for federal income tax purposes, but not for Illinois income tax purposes.

100.3380 & 100.9700 – These amendments address issues that have arisen in the application of 86 Ill. Adm. Code Section 100.3380(d), dealing with partnerships that are members of the same unitary business group as one or more of their partners. This regulation was adopted pursuant to the Department's authority under Section 304(f) of the Illinois Income Tax Act to provide alternative methods of apportioning business income when the statutory provisions fail to accurately and fairly reflect the taxpayer's business activity in Illinois. This regulation currently provides that a partnership cannot be included in a unitary business group because to do so would distort the income of non-unitary partners. The Department has determined that the provisions of the existing regulation can result in distortion in the computation of the income of the unitary business group in cases where there is no significant ownership of the partnership by any person outside the group. In such cases, failure to treat the partnership as a member of the group creates an additional sales factor for all transactions between the partnership and group members and can cause the partnership’s apportionment fraction to be
different from the group's fraction. This is inconsistent with the unitary business concept, which treats the group as a single taxpayer, and is not required by considerations of non-unitary partners, and allows tax planning opportunities for sophisticated taxpayers while creating pitfalls for taxpayers unaware of this provision. For the same reasons, the provision in the existing regulation that states intercompany transactions are not eliminated is amended to provide that such transactions are eliminated for purposes of computing the unitary business group’s apportionment factors, but not for purposes of computing the factors of the partnership itself or the income of the non-unitary partners. Finally, issues arising from the application to partnerships of the "common ownership" requirement for inclusion in a unitary business group are addressed in the amendments to Section 100.9700.

100.5040 – This amendment amends the "innocent spouse" provision to provide that, if the Department requires information that is not in the possession of the spouse who has filed a petition for innocent spouse relief in order to make a determination of the appropriate relief, it will ask the other spouse for information only if the petitioning spouse requests the Department to do so. This will protect the privacy of the petitioning spouse, especially in cases where the petitioning spouse may fear reprisal from an abusive spouse.

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

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

217/782-7055

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
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SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 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))
a) Taxpayers are entitled to subtract from taxable income (adjusted gross income, in the case of an individual), an amount equal to the sum of all amounts disallowed as deductions by sections 171(a)(2) and 265(2) of the Internal Revenue Code of 1954, and all amounts of expenses allocable to interest and disallowed as deductions by section 265(1) of the Internal Revenue Code of 1954, and, for taxable years ending on or after August 13, 1999, sections 171(a)(2), 265, 280C, 291(a)(3) and 832(b)(5)(B)(i) of the Internal Revenue Code. (IITA Section 203)

In order to prevent double deductions, no subtraction is allowed under these provisions for amounts already subtracted because of an exemption from taxation by virtue of Illinois law or the Illinois or U.S. Constitution, or by reason of U.S. treaties or statutes (see Section 100.2470).

b) Section 171 of the Internal Revenue Code requires amortization of premiums paid for a tax-exempt bond over the period between the purchase date and either the maturity date or, if earlier, the first date on which the bond may be called. Section 171(a)(2) of the Internal Revenue Code states that, when the interest of a tax-exempt bond is excludable from gross income, there shall be no deduction for the amortizable bond premium for the taxable year. The IITA allows taxpayers to subtract the bond premium amortization required by section 171 of the Internal Revenue Code for that year to the extent the taxpayer was prohibited from deducting the amortization by section 171(a)(2) of the Internal Revenue Code. Illinois does not provide any adjustment to federal taxable income (adjusted gross income in the case of an individual) related to gains or losses on the sales of bonds. The only subtraction is for the amortization of bond premium that is allocable to that particular tax year. If the bond is called before maturity, then there is no subtraction for periods after the call date.

c) Section 265 of the Internal Revenue Code provides that no deduction shall be allowed from federal taxable income (adjusted gross income in the case of an individual) for expenses relating to tax-exempt income (section 265(a)(1) of the Internal Revenue Code), and for interest relating to tax-exempt income (section 265(a)(2) of the Internal Revenue Code). These expense and interest amounts, determined in a manner consistent with the provisions of the Internal Revenue Code, are allowable subtractions for Illinois income tax purposes.

d) Section 280C(a) of the Internal Revenue Code provides that no deduction shall be allowed for that portion of wages or salaries paid or incurred for the taxable year that is equal to the sum of the credits determined for the taxable year under
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sections 45A (the Indian Employment Credit), 51(a) (the Work Opportunity Credit), 1396(a) (the Empowerment Zone Employment Credit), 1400P(b) (employer provided housing for individuals affected by Hurricane Katrina), and 1400R (employee retention by employers affected by hurricanes) of the Internal Revenue Code. Section 280C(b) of the Internal Revenue Code provides that no deduction shall be allowed for that portion of the qualified clinical testing expenses for certain drugs for rare diseases or conditions otherwise allowable as a deduction for the taxable year that is equal to the amount of the credit allowable for the taxable year under section 45(C) of the Internal Revenue Code. Section 280(C)(c) of the Internal Revenue Code provides that no deduction or credit shall be allowed for that portion of the qualified research expenses or basic research expenses otherwise allowable as a deduction or credit for the taxable year that is equal to the amount of the credit determined for such taxable year under section 41(a) of the Internal Revenue Code.

e) Section 291(a)(3) of the Internal Revenue Code provides that the amount allowable as a deduction with respect to certain financial institution preference items shall be reduced by 20%. Illinois provides a subtraction modification for the remaining 20% not deducted federally with respect to those financial institution preference items.

f) Section 835(b)(5)(B)(i) of the Internal Revenue Code provides that the amount of federal deduction for losses incurred on insurance company contracts shall be reduced by an amount equal to 15% of the sum of tax-exempt interest received or accrued during the taxable year. Illinois provides a subtraction modification for the remaining 15% not deducted federally with respect to the tax-exempt interest received or accrued during the taxable year from insurance company contracts.

(Source: Added at 32 Ill. Reg. 10170, effective June 30, 2008)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3380 Special Rules (IITA Section 304)

a) Determining Business Activity Within Illinois

1) Petition
IITA Section 304(f) provides that if the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not
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fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may require, in respect of all or any part of the person's business activity, if reasonable:

A) Separate accounting;

B) The exclusion of any one or more factors;

C) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or

D) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

2) Director's Determination

The Director has determined that, in the instances described in this Section, the apportionment provisions provided in subsections (a) through (e) and (h) of IITA Section 304 do not fairly represent the extent of a person's business activity within Illinois. For tax years beginning on or after the effective date of a rulemaking amending this Section to prescribe a specific method of apportioning business income, all nonresident taxpayers are directed to apportion their business income employing that method in order to properly apportion their business income to Illinois. Taxpayers whose business activity within Illinois is not fairly represented by a method prescribed in this Section and who do not want to use that method for a tax year beginning after the effective date of the rulemaking adopting that method must file a petition under Section 100.3390 of this Part requesting permission to use an alternative method of apportionment. For tax years beginning prior to the effective date of the rulemaking adopting a method of apportioning business income, the Department will not require a taxpayer to adopt that method; provided, however, if any taxpayer has used that method for any such tax year, the taxpayer must continue to use that method that tax year. Moreover, a taxpayer may file a petition under Section 100.3390 of this Part to use a method of apportionment prescribed in this Section for any open tax year beginning prior to the effective date of the rulemaking adopting that method, and such petition shall be granted in the absence of facts showing that such method will not fairly represent the extent of a person's business activity in Illinois.
b) Property Factor. The following special rules are established in respect to the property factor in IITA Section 304(a)(1):

1) If the subrents taken into account in determining the net annual rental rate under Section 100.3350(c) of this Part produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the Director or requested by the person. In no case however shall such value be less than an amount which bears the same ratio to the annual rental rate paid by the person for such property as the fair market value of that portion of the property used by the person bears to the total fair market value of the rented property.

Example: A corporation rents a 10-story building at an annual rental rate of $1,000,000. The corporation occupies two stories and sublets eight stories for $1,000,000 a year. The net annual rental rate of the taxpayer must not be less than two-tenths of the corporation annual rental rate for the entire year, or $200,000.

2) If property owned by others is used by the person at no charge or rented by the person for a nominal rate, the net annual rental rate for such property shall be determined on the basis of a reasonable market rental rate for such property.

c) Sales Factor. The following special rules are established in respect to the sales factor in IITA Section 304(a)(3):

1) In the case of sales where neither the origin nor the destination of the sale is within this State, and the person is taxable in neither the state of origin nor the state of destination, the sale will be attributed to this State (and included in the numerator of the sales factor) if the person's activities in this State in connection with the sales are not protected by the provisions of P.L. 86-272, 15 USC 381-385. Although P.L. 86-272, by its terms covers only sales of tangible personal property, its rules regarding a state's power to impose a net income tax, for purposes of this special rule, will be applied whether the sale is of tangible or intangible property.

Example: A corporation's salesman operates out of an office in Illinois.
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He regularly calls on customers both within and without Illinois. Orders are approved by him and transmitted to the corporation's headquarters in State A. If the property sold by the salesman is shipped from a state in which the corporation is not taxable to a purchaser in a state in which the corporation is not taxable, the sale is attributable to Illinois.

2) Where gross receipts arise from an incidental or occasional sale of assets used in the regular course of the person's trade or business, such gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

3) Where the income producing activity in respect to business income from intangible personal property can be readily identified, such income is included in the denominator of the sales factor and, if the income producing activity occurs in this State, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property (Section 100.3370(a)(1)(A) of this Part).

4) Where business income from intangible property cannot readily be attributed to any income producing activity of the person, such income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. The following provisions illustrate this concept:

A) Subpart F (26 USCA 951-964) income is passive income generated by the mere holding of an intangible. For taxable years ending on or after December 31, 1995, Subpart F income is excluded from the sales factor under IITA Section 304(a)(3)(D). For prior taxable years, there is a rebuttable presumption that Subpart F income is not includable in either the numerator or the denominator of the sales factor. If a taxpayer wishes to include Subpart F income in either the numerator or the denominator of the sales factor, the burden of proof is on the taxpayer to identify the income producing activities and to situs those activities within a particular state, or

B) where business income in the form of dividends received on stock during taxable years ending before December 31, 1995, or interest
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received on bonds, debentures or government securities results from the mere holding of intangible personal property by the person, such dividends and interest shall be excluded from the denominator of the sales factor.

5) In the case of sales of business intangibles (including, by means of example, without limitation, patents, copyrights, bonds, stocks and other securities), gross receipts shall be disregarded and only the net gain (loss) therefrom shall be included in the sales factor.

EXAMPLE: In 1990, Corporation A, a calendar year taxpayer, sells stock with an adjusted basis of $98,000,000 for $100,000,000, realizing a federal net capital gain of $2,000,000. Only the net capital gain of $2,000,000 is reflected in A's sales factor for the taxable year ending December 31, 1990.

d) Unitary Partners: Inclusion of shares of partnership unitary business income and factors in combined unitary business income and factors of partners.

1) IITA Section 304(e) provides that whenever 2 or more persons are engaged in a unitary business as described in IITA Section 1501(a)(27), a part of which is conducted in this State by one or more members of the group, the business income attributable to this State by any such member or members shall be apportioned by means of the combined apportionment method. Because partnerships may be members of a unitary business group within the meaning of IITA Section 1501(a)(27), this provision requires a partnership to use combined apportionment when it is engaged in a unitary business with one or more of its partners. However, partners who are not engaged in a unitary business with the partnership are required to include their shares of the partnership's business income apportioned to Illinois in their Illinois net incomes under IITA Section 305(a), and those partners' business activities in Illinois would not be represented fairly by their shares of partnership income computed by combining the business income and apportionment factors of the partnership with the business income and apportionment factors of its unitary partners.

2) Accordingly, except in a case in which substantially all of the interests in the partnership (other than a publicly-traded partnership under section
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7704 of the Internal Revenue Code) are owned or controlled by members of the same unitary business group, when the business activities of a partnership and any of its partners' business activities constitute a unitary business:

A) The partner's distributive share of the business income and apportionment factors of the partnership shall be included in that partner's business income and apportionment factors. In determining the business income and apportionment factors of the partnership, transactions between the unitary partner (or members of its unitary business group) and the partnership shall not be eliminated. However, all transactions between the unitary business group and the partnership shall be eliminated for purposes of computing the apportionment factors of the partner and of any other member of the unitary business group.

EXAMPLE: Partner and Partnership are engaged in a unitary business. Partner owns a 20% interest in Partnership. Partnership has $10,000,000 in sales everywhere, $3,000,000 of which are to Partner, and $4,000,000 in Illinois sales, $1,000,000 of which are to Partner. In computing its apportionment factor, Partner will include $1,400,000 from Partnership in its everywhere sales (20% of Partnership's $10,000,000 in everywhere sales, after eliminating the $3,000,000 in sales to Partner) and $600,000 from Partnership in its Illinois sales (20% of Partnership's $4,000,000 in Illinois sales, after eliminating the $1,000,000 in sales to Partner). Also, Partner must eliminate any sales it made to Partnership.

B) If a partnership and one of its partners are engaged in a unitary business and the partnership is itself a partner in a second partnership:

i) If the partner is not engaged in a unitary business with the second partnership, the partner's share of the first partnership's share of the business income and apportionment factors of the second partnership shall not be included in the partner's business income and apportionment factors. Instead, the partner's share of the first partnership's share of the base income apportioned to
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Illinois by the second partnership will be included in the partner's Illinois net income.

ii) If the partner is engaged in a unitary business with the second partnership, the partner's share of the first partnership's share of the business income and apportionment factors of the second partnership shall be included in the partner's business income and apportionment factors.

3) This subsection (d) shall not apply to a partner's shares of business income and apportionment factors from any partnership that cannot be included in a unitary business group with that partner because:

A) the partner and the partnership are required to apportion their business income using different apportionment formulas under IITA Section 304, and therefore cannot be members of a unitary business group under IITA Section 1501(a)(27); or

B) the business activities of either the partner or the partnership outside the United States are equal to or greater than 80% of the total worldwide business activities of that partner or partnership, as determined under Section 1502(a)(27) of the IITA. In applying this 80-20 test to a taxpayer, no apportionment factors of any partnership shall be included in the apportionment factors of that taxpayer pursuant to this subsection (d).

If the partnership is itself a partner in a second partnership, and one of its partners is engaged in a unitary business with the second partnership and is not prohibited from being a member of a unitary business group that includes the second partnership under subsection (d)(3)(A) or (B), that partner shall include in its business income and apportionment factors its share of the partnership's share of the second partnership's business income and apportionment factors.

4) If substantially all of the interests in a partnership (other than a publicly-traded partnership under section 7704 of the Internal Revenue Code) are owned or controlled by members of the same unitary business group, the
partnership shall be treated as a member of the unitary business group for all purposes, and, for purposes of applying IITA Section 305(a) to any nonresident partner who is not a member of the same unitary business group, the business income of the partnership apportioned to this State shall be determined using the combined apportionment method prescribed by IITA Section 304(e). For purposes of this subsection (d), substantially all of the interests in a partnership are owned or controlled by members of the same unitary business group if more than 90% of the federal taxable income of the partnership is allocable to one or more of the following persons:

A) any member of the unitary business group;

B) any person who would be a member of the unitary business group if not for the fact that 80% or more of such person's business activities are conducted outside the United States;

C) any person who would be a member of the unitary business group except for the fact that such person and the partnership apportion their business incomes under different subsections of IITA Section 304; or

D) any person who would be disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of section 267 of the Internal Revenue Code by virtue of being related to any person described in subsections (d)(4)(A), (B) or (C) of this Section, as well as any partnership in which a person described in subsections (d)(4)(A), (B) or (C) is a partner.

5) **Example:** Corporation A owns a 50% interest in P-1, a partnership. Corporation A and P-1 are engaged in a unitary business within the meaning of IITA Section 1501(a)(27). P-1 itself conducts no business activities in Illinois, and the Illinois numerator of its apportionment factor is zero. P-1 holds a 50% interest in P-2, a partnership doing business exclusively in Illinois. P-1 has $1.4 million of taxable business income, not including any income from P-2. P-2 has base income of $1 million, all of which is business income, and on a separate-entity basis, all of its business income would be apportioned to Illinois.
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If Corporation A and P-2 are not members of the same unitary business group, Corporation A would compute its business income apportioned to Illinois by including $700,000 (50% of $1.4 million) of P-1's business income in Corporation A's business income, and 50% of P-1's apportionment factors in its apportionment factors. Corporation A also would include in its Illinois net income its 50% share of P-1's 50% share of the base of P-2 apportionable to Illinois, or $250,000 (50% of 50% of $1 million).

If Corporation A, P-1 and P-2 are members of the same unitary business group, P-1 will include 50% of P-2's business income and 50% of P-2's apportionment factors in its own business income and apportionment factors. Accordingly, P-1's business income will be $1.9 million (the $1.4 million it earned directly plus its 50% share of P-2's $1 million in business income). Corporation A will then compute its business income apportioned to Illinois by including its 50% share of P-1's business income, or $950,000 (50% of $1.9 million) with its business income and its 50% share of P-1's apportionment factors (which will include P-1's share of P-2's apportionment factors) in its apportionment factors.

If Corporation A, P-1 and P-2 are unitary, but P-1 cannot be included in a unitary business group with Corporation A and P-2 because those entities apportion their business income under IITA Section 304(a) and P-1 is a financial organization that apportions its business income under IITA Section 304(c), Corporation A will include in its business income and apportionment factors its 50% share of P-1's 50% share of the business income and apportionment factors of P-2. Also, Corporation A's Illinois net income will include 50% of the business income of P-1 apportioned to Illinois by P-1 using its own apportionment factors. Because, in this example, P-1 is not doing business in Illinois, none of its business income will be included in Corporation A's Illinois net income.

e) Apportionment of Business Income by Foreign Taxpayers

1) Under 26 USCA 882, foreign corporations include only effectively-connected income in their federal taxable income. Foreign taxpayers may exclude other items of income from their federal taxable income if authorized under treaty, as provided in 26 USCA 894. Using a foreign taxpayer's worldwide apportionment factors to determine how much of its
domestic business income should be apportioned to Illinois would not fairly represent that taxpayer's business activities within Illinois. Accordingly, a foreign taxpayer shall use only the apportionment factors related to its domestic business income when apportioning its business income to Illinois. Similarly, in determining whether 80% or more of a foreign taxpayer's total business activity is conducted outside the United States for purposes of IITA Section 1501(a)(27), that taxpayer must use only the apportionment factors related to the business income included in its federal taxable income (plus addition modifications), rather than use all of its worldwide factors.

2) Foreign Sales Corporations. Under 26 USC 921, "exempt foreign trade income" of a foreign sales corporation is treated as foreign source income excluded from gross income. "Exempt foreign trade income" is defined in 26 USC 923 to equal the sum of the amounts of income derived from various categories of transaction, with the income from each category multiplied by specific percentages. As a general rule, there is no systematic relationship between transactions qualifying for this treatment and any particular item of property or payroll of a foreign sales corporation. Accordingly, the provisions of subsection (e)(1) of this Section shall not apply to a foreign sales corporation and, in apportioning its business income and in determining whether 80% or more of its business activity is conducted outside the United States, a foreign sales corporation shall use all of its apportionment factors.

(Source: Amended at 32 Ill. Reg. 10170, effective June 30, 2008)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100.5040 Innocent Spouses

a) Spouses who file a joint return for a taxable year are each liable for the entire tax liability of the couple, regardless of which spouse earned the income reportable on the return. (See IITA Section 502(c).) However, spouses may be entitled to relief from some or all of a joint return liability under the Innocent Spouse provision in IITA Section 502(c)(4). An election under this Section to obtain such relief applies to every year for which a joint return was filed involving the same two individuals listed in the election.
For tax liabilities arising and paid prior to August 13, 1999, a spouse shall, with respect to any taxable year to which the election applies, be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, to the same extent as the relief provided by the Internal Revenue Service under a Section 6013(e) determination. If there is no federal income tax liability at issue, a spouse shall be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, if:

1) a joint return was filed for such taxable year;
2) the amount of understatement of tax exceeds $500 and is attributable to an omission by such person's spouse;
3) the spouse did not know of, and had no reason to know of, such omission at the time of signing the return; and
4) it is unfair to hold the spouse liable for the deficiency in tax for such omission.

c) For tax liabilities arising after August 13, 1999, or which arose prior to but remain unpaid as of August 13, 1999, any individual who makes an election under this Section shall be liable only for the amount of Illinois income tax that does not exceed the individual's separate return amount for that taxable year and the individual's liability for any deficiency assessed for that taxable year shall not exceed the portion of the deficiency properly allocable to the individual. (IITA Section 502(c)(4)(B)) If any portion of a liability for a tax year (including any portion of any interest or penalty) arising prior to August 13, 1999 remains unpaid as of that date, innocent spouse relief for that entire liability shall be determined pursuant to this subsection (c). (See Flores v. United States, 88 A.F.T.R.2d 2001-7020 (Ct. Fed. Cl. 2001).)

d) Making the Election. There are two ways that an individual may elect the protection of the innocent spouse provision according to IITA Section 502(c)(4):

1) An individual who submits proof of an election made pursuant to Section 6015 of the Internal Revenue Code (by sending a copy of Form 8857 to the Department) automatically elects the innocent spouse provision (i.e., IITA 502(c)(4)). Any determination made under Section 6015 with respect to the validity of the innocent spouse election and/or the
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individual's separate return amount or portion of any deficiency attributable to the individual is conclusively presumed to be correct.

2) If no election has been made under Internal Revenue Code Section 6015, an innocent spouse must file Form IL-8857 and meet the following conditions:

A) a joint return was filed for the taxable year; and

B) the spouse seeking relief under this Section either has been assessed an amount of Illinois income tax for the taxable year in excess of his or her separate return amount or has had a deficiency asserted against him or her (whether or not assessed) that is properly allocable to the other spouse; and

C) no assets have been transferred between the spouses as part of a scheme by such individuals to avoid payment of Illinois income tax.

e) Limitations on the Innocent Spouses Election. An innocent spouse election shall qualify as a claim for refund of any overpayment that results from the granting of innocent spouse relief. There is no limitations period for making an innocent spouse election. However, no refund of taxes paid by a spouse making the election will be made unless the election is filed within the applicable period for filing a claim for refund of income taxes.

f) Notice to Joint Return Spouse. At the written request of the spouse making the election, the Department shall send a notice to the other spouse listed on the joint return for the tax years at issue, stating that a request for innocent spouse relief has been filed and inviting submission of any documentation or other information that may assist the Department in making a determination. Notice will be sent by regular mail to the joint return spouse's last known address. The notice shall state that it does not give the notified spouse any right to participate in the proceedings and that, although the notified spouse may provide documentation or other information at any time, the Department is not obligated to consider any submission made more than 60 days after the date of the notice. Another notice shall be sent after the determination is final stating the effects of the proceedings on the joint return spouse's liability.
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**g)** Burden of Proof. The individual seeking relief has the burden of proof with respect to all matters, except that the Department has the burden of proof with respect to disputes regarding a spouse's knowledge of an erroneous item or the existence of a scheme to avoid payment of tax under subsection (d)(2)(C) of this Section.

**h)** Collection Action. Receipt by the Department of proof of an election under the Internal Revenue Code section 6015 or the filing of Form IL-8857 will only terminate Department collection activity against the spouse seeking relief; assessments will continue against both spouses. Collection activity will cease until a notice is sent to the electing spouse:

1) stating that the election is invalid; or

2) identifying the portion of tax liability or deficiency that has been allocated to the electing spouse.

**i)** Written Protests. An electing spouse who receives a notice stating either that the election is invalid or that the relief granted is less than the relief the electing spouse believes is warranted may file a written protest to the notice within 60 days (or 150 days if outside the United States) from the date of the notice. If a written protest is filed, the electing spouse will be granted a hearing according to IITA Section 908. Further administrative review shall be allowed in accordance with IITA Section 1201. Once the Department is in receipt of a written protest that is properly filed, no collection action shall be taken by the Department until the decision regarding the protest becomes final under Section 908(d), or if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final. Assessment is not affected by the filing of a written protest.

**j)** Claims in Addition to the Innocent Spouse Provision. Alternative grounds for the individual's claim of reduced liability or no liability shall be consolidated, if possible, with the election of the innocent spouse provision and any outstanding Notice of Deficiencies in order to enhance administrative efficiency.

**k)** Definitions.

1) "Separate return amount" means an amount equal to the excess (if any) of:
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A) the tax liability of the individual based on the items shown on the joint return for the taxable year if the individual had filed a separate return, over

B) the aggregate payments of such tax properly allocable to such individual, net of any refund or credit allowed for any overpayment of tax for the taxable year.

In determining the tax liability that the individual would have incurred had he or she filed a separate return, any item of income, deduction, exemption credit, or payment that is not clearly allocable to either spouse shall be divided equally between the spouses. In determining the payments of tax allocable to an individual for a taxable year, any payment of estimated tax made on behalf of both spouses, any credit allowed on a return for an overpayment reported on the preceding taxable year's joint return by the same spouses, and any refund or credit allowed for an overpayment shown on the return for the taxable year will be allocated in proportion to the separate return amount of each spouse for the taxable year, as determined without regard to such estimated tax payment, credit or overpayment refunded or credited.

Example 1. Interest earned on a joint bank account, the exemptions allowed for dependent children, the credit for property taxes paid with respect to the spouses' principal residence, and any payment of estimated tax made from a joint bank account will be divided equally between the spouses in the absence of evidence that such amounts should be allocated in a different manner.

Example 2. Husband and Wife file a 1999 Illinois income tax return, reporting an overpayment of $500 which they elect to have credited against their joint estimated tax liability for 2000. They make joint estimated tax payments of $200 in 2000 and file a joint return for 2000, and Wife subsequently requests innocent spouse relief. For 2000, Husband's separate return amount, as determined without regard to the $500 credit or the $200 in estimated tax payments, is $2,000. The tax on Wife's separate return items is less than the amount of Illinois income tax withheld from her wages by her employer. Accordingly, the entire $700 in credit and estimated tax payments are allocable to Husband. If Wife's separate return amount, determined without regard to the credit or the
estimated tax payments, were $1,000, one-third of the $700 would be allocable to her and two-thirds would be allocable to Husband.

2) For purposes of this Section, "deficiency" means the difference between the total amount of tax that should have been shown on the return and the amount of tax that was actually shown on the return. The portion of a deficiency properly allocable to an individual will be determined by allocating the erroneous items of income, deduction or credit whose correction generates the deficiency between the spouses in the same manner as would be used to allocate such items between the spouses for purposes of determining the separate return amounts for the spouses; provided that the amount of any deficiency resulting from an erroneous item shall be allocated to each spouse who had actual knowledge of the erroneous item.

Example 3. Husband and Wife file a joint return for 2000 which omits $5,000 in compensation earned by Husband from a temporary job. Wife knew that the $5,000 was improperly omitted at the time she signed the return. In determining the deficiency allocable to Husband, the $5,000 will be allocated to him because it is his income. However, in determining the deficiency allocable to Wife, the $5,000 will be allocated to her because it is an erroneous item of which she had actual knowledge. Note that the Department has the burden of proof to show that Wife had actual knowledge of the erroneous item.

3) "Erroneous items" means any unreported income and any deductions or credits reported incorrectly on a return.

(Source: Amended at 32 Ill. Reg. 10170, effective June 30, 2008)

SUBPART BB: DEFINITIONS

Section 100.9700 Unitary Business Group Defined (IITA Section 1501)

a) Scope
This regulation is designed to clarify the meaning of IITA Section 1501(a)(27), defining "unitary business group", which definition became effective for tax years ending on or after December 31, 1982.
b) Persons required to use combined apportionment related through common ownership

Any person subject to Illinois income taxation may be a member of a unitary business group and required to use combined apportionment under IITA Section 304(e). Corporations (other than Subchapter S corporations) who are members of a unitary business group are required to file combined returns under IITA Section 502(e). For the treatment of certain partners and partnerships engaged in a unitary business, see Section 100.3380(d) of this Part. Every member of a unitary business group who is neither a corporation required to join in a combined return nor a partnership excluded from combined apportionment under Section 100.3380 of this Part shall determine the Illinois portion of its business income pursuant to IITA Section 304(e) by computing the combined business income of the unitary business group in the manner prescribed in Section 100.5270(a) of this Part, and apportioning such unitary business income to Illinois using the combined "everywhere" apportionment factors of the unitary business group and that person's own "Illinois" apportionment factors. If one or more other members of the unitary business group have taxable years different from the taxable year of the taxpayer filing the return, that taxpayer shall compute the combined business income of the group for its taxable year by including the incomes of the members using a different taxable year in the manner prescribed by Section 100.5265 of this Part. A unitary business group will be composed exclusively of business corporations. However, see the special rule at Section 3380(c) of this Part regarding inclusion of shares of partnership unitary business income and factors.

c) The 80-20 U.S. business activity test for prospective members

The factors to be used in determining whether 80% or more of a person's business activity is conducted outside the United States shall be gross figures without eliminations premised on the person's membership in any unitary business group. However, the factors should relate to the common taxable year, as defined in Section 100.5265 of this Part, of the unitary business group of which the person being tested could become a member were the person's business activity found to be less than 80% outside the United States. The factors to be used are as follows:

1) persons required to apportion business income under IITA Section 304(a) will use property and payroll,

2) persons required to apportion business income under IITA Sections 304(b), 304(c) or 304(d) will use the respective factors prescribed in those provisions.
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A) In accordance with IITA Section 102 and 26 USC 7701(b)(9), the phrase "United States" as used in IITA Section 1501(a)(27) shall include only the fifty states and the District of Columbia.

B) Mechanically, the computation of the 80-20 U.S. business activity test requires the formation of one or two fractions, as the case may be, and the subsequent averaging of those fractions to arrive at an overall U.S. business activity in relation to world-wide business activity. The numerators of the fraction represents U.S. property, U.S. payroll, U.S. revenue miles, insurance premiums on property or risk in the U.S. or financial organization business income from sources within the U.S.; the respective denominators are world-wide figures.

C) In the case of a person who would be a member of a unitary business group for only part of a taxable year if less than 80% of its business activities were conducted outside the United States, the 80-20 U.S. business activity test shall be applied only to that part of the person's taxable year for which the prospective member otherwise qualifies for membership in the unitary business group. If that person is a corporation and is a prospective member of a unitary business group required to file combined returns under IITA Section 502(f), the 80-20 U.S. business activity test shall be applied only to that part of the combined group's common taxable year for which that person otherwise qualifies for membership in the combined group.

d) Entities using different apportionment formulas under IITA Section 304

1) All members of a unitary business group must be eligible under IITA Section 304 to use the same apportionment formula. As a consequence, a corporation required to use the three factor apportionment formula of Section 304(a) cannot be a member of the same unitary group as a corporation required to use the one factor apportionment formula of IITA Section 304(c), nor may a corporation required to use the one factor apportionment formula of IITA Section 304(c) be a member of the same unitary business group as a corporation required to use the one factor apportionment formula of IITA Section 304(b). The proper method for
determining unitary business group memberships under IITA Section 1501(a)(27) is first to identify all entities that are related through common ownership and engaged in either horizontally or vertically integrated enterprises with the requisite exercise of strong centralized management and second, to create from the population of entities thus identified one unitary business group composed of entities required to apportion under IITA Section 304(a), one unitary business group composed of entities required to apportion under IITA Section 304(b), one unitary business group composed of entities required to apportion under IITA Section 304(c) and one unitary business group composed of entities required to apportion under IITA Section 304(d).

2) EXAMPLE:

A) FACTS: Corporation A owns all of the outstanding common stock of Corporations B and C. Corporations B and C each own 30% of the outstanding common stock of Corporation D. Corporation D owns 60% of the outstanding common stock of Corporation E. Corporation A is a mining company operating exclusively in Illinois. Corporation D is a manufacturing company with factories in Illinois and Indiana. Corporation C is an insurance company earning premiums for insuring property and risks located in Illinois and Indiana. Corporation B is an air freight company and Corporation E is a trucking company, both operating nationwide. In their relationships to one another, the five companies: are "steps in a vertically structured enterprise or process" and are "functionally integrated through the exercise of strong centralized management."

B) ANALYSIS AND CONCLUSION: As a result of these facts, Corporations A and D, which would ordinarily be required to apportion business income by means of the three factor apportionment formula of IITA Section 304(a), will constitute one unitary business group; Corporations B and E, which would ordinarily be required to apportion business income by means of the one factor transportation formula IITA Section 304(d) will constitute a second unitary business group; and Corporation C will compute its liability on a non-combined apportionment basis under IITA Section 304(b).
e) Common ownership

In the case of a corporation, common ownership means direct or indirect control or ownership of more than 50% of outstanding voting stock. In the case of any other entity, common ownership means direct or indirect ownership of an interest sufficient to exercise control over the activities of the entity. For example, ownership of a general partnership interest gives the partner the authority to act on behalf of the partnership and bind the partnership, regardless of actual ownership share. See Section 9 of the Uniform Partnership Act [805 ILCS 205/9]. Accordingly, a general partner in any partnership has an interest in the partnership sufficient to establish common ownership. Insofar as corporations are concerned, one has direct ownership of the outstanding voting stock of another to the extent that it owns such stock and indirect control to the extent that it owns the voting stock of a third corporation that which itself owns such stock. Any combination of direct and indirect control or ownership aggregating more than 50% will suffice to qualify the corporation whose stock is owned for membership in the unitary business group if other tests unrelated to ownership are met.

1) Corporation A owns 60% of the outstanding voting stock of Corporation B which in turn owns 60% of the outstanding voting stock of Corporation C. There is common ownership of Corporations A, B and C by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B and indirect control of more than 50% of the outstanding voting stock of Corporation C.

2) Corporation A owns 60% of the outstanding voting stock of Corporation B and 60% of the outstanding voting stock of Corporation C. Corporations B and C in turn each own 30% of the outstanding voting stock of Corporation D. Corporations A, B, C and D are all under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporations B and C and by reason of Corporation A's indirect control of more than 50% of the outstanding voting stock of Corporation D.

3) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporations B and C each in turn own 30% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by
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reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B, but neither Corporations C or D are under common ownership with Corporations A and B because neither Corporation A nor Corporation B has direct or indirect control or ownership of more than 50% of the outstanding voting stock of Corporations C or D.

4) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporation B owns 30% of the outstanding voting stock of Corporation D and Corporation C owns 60% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of the fact that Corporation A owns more than 50% of the outstanding voting stock of Corporation B, and Corporations C and D are under separate common ownership by reason of the fact that Corporation C owns more than 50% of the outstanding voting stock of Corporation D.

f) Attribution of stock ownership among certain persons
For the purpose of IITA Section 1501(a)(27), a person shall be considered to have indirect control over any stock that he is considered as owning under IRC section 26 USC 318(a)(1). EXAMPLE: Strictly as an investment, Mr. X and his wife, Mrs. X, each individually own 30% of the outstanding voting stock of Corporation A and 30% of the outstanding voting stock of Corporation B. Corporations A and B are under common ownership within the meaning of Section 1501(a)(27), and assuming that they meet the other requirements of IITA Section 1501(a)(27), they will be members of the same unitary business group. The common ownership stems from the fact that, under IRC section 318(a)(1) of the Internal Revenue Code, the stock holdings of Mr. X are imputed to his wife and vice versa. Note that it is not necessary in order for Corporations A and B to be members of a unitary business group that the "person" in whom the common ownership is embodied also be a member of the unitary business group.

g) Strong centralized management
Under IITA Section 1501(a)(27), no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management. It is this exercise of strong centralized management that is the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the
same unitary business group. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member. Thus, some groups of persons may properly be considered as constituting a unitary business group under IITA Section 1501(a)(27) when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units that perform for some or all of the persons functions that truly independent persons would perform for themselves. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management exists. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must be present in order for persons to be a unitary business group under IITA Section 1501(a)(27). Finally, a finding of strong centralized management can be supported even though the authority resides in a person that is not a member of the group, provided that the authority is actually exercised by such person.

h) General line of business and vertically structured enterprises

1) Section 1501(a)(27) of the Act establishes that persons meeting all of the other tests for inclusion in a unitary business group, including common ownership, strong centralized management and comparability of apportionment method, will ordinarily be in one of the following relationships to one another:

A) in the same general line of business, or

B) steps in a vertically structured enterprise or process.

2) IITA Section 1501(a)(27) recites that two persons will ordinarily be considered to be in the same general line of business if they are both involved in one of the following activities:
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A) manufacturing
B) wholesaling
C) retailing
D) insurance
E) transportation, or
F) finance

3) IITA Section 1501(a)(27) does not contemplate that the above list be exclusive. For example, two persons that are both involved in rendering services to the public would ordinarily be considered to be in the same general line of business. In this regard, a retailer that renders services that are incidental to its retail business will not be in the same general line of business as a person that is primarily a service dispenser.

4) It is not a requirement of IITA Section 1501(a)(27) that the activities of the two persons in whichever category is applicable relate to the same product or product line in order for the two persons to be in the same general line of business.

5) Two persons are steps in a vertically structured enterprise or process under IITA Section 1501(a)(27) even though other persons who are also steps in that enterprise or process are not members of the same unitary business group because of the intervention of: the 80-20 U.S. business activity test or the rules stated in subsection (d) of this Section, relating to the comparability of apportionment formulas of members of a unitary business group.

EXAMPLE 1:

A) FACTS: Corporation A manufactures furniture. Corporation C retails the furniture manufactured by Corporation A. Corporation B is a furniture finisher and wholesaler operating exclusively in Mexico which purchases Corporation A's unfinished furniture, applies the appropriate finishing materials in its Mexican plants,
and sells the finished furniture to Corporation C.

B) ANALYSIS AND CONCLUSION: Corporations A and C are steps in a vertically structured enterprise and as such can be members of the same unitary business group. They do not lose their status as steps in a vertically structured enterprise by reason of the fact that they never directly deal with one another, since they both deal with Corporation B which is also a step in the vertically structured enterprise and which would be a member of the unitary business group were it not for the intervention of the 80/20 U.S. business activity test.

6) A person will not be a step in a vertically structured enterprise or process unless it is connected to one or more other persons that are steps in the vertically structured enterprise or process by a flow of goods or services, including management services, to itself or from itself. However, if such a flow of goods or service is present with respect to a particular person, that person's status as a step in the vertically structured enterprise or process shall not depend on the relationship between the price at which this flow exists and the fair market price at which this flow would exist in an arm's length transaction.

EXAMPLE 2:

A) FACTS: Same facts as in the previous example, except that Corporation A can establish that it sells its unfinished furniture to Corporation B at a fair market arm's length price and Corporation C can establish that it purchases the finished furniture from Corporation B at a fair market arm's length price.

B) ANALYSIS AND CONCLUSION: Even with their respective showings that the flow of furniture connecting them to Corporation B existed at an arm's length price, Corporations A and C are still steps in a vertically structured enterprise and can still be members of the same unitary business group.

(Source: Amended at 32 Ill. Reg. 10170, effective June 30, 2008)
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1) **Heading of the Part:** Retailers' Occupation Tax

2) **Code Citation:** 86 Ill. Adm. Code 130

3) **Section Number:** Adopted Action:  
   - 130.120 Amendment

4) **Statutory Authority:** 35 ILCS 120/2-5, PA 95-233 and PA 95-707

5) **Effective Date of Amendment:** June 24, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 4155; March 21, 2008

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

11) **Differences between proposal and final version:** The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** No agreement letter was issued by JCAR.

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

14) **Are there any amendments pending on this Part?** Yes

   **Section Numbers:** Proposed Action: Illinois Register Citation:  
   - 130.605 Amendment 32 Ill. Reg. 8850; June 20, 2008

15) **Summary and Purpose of Amendment:** This adopted rulemaking describes the time periods for which the exemption is allowed for retailers of certain motor vehicles that are
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to be used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act. This exemption in the Retailers' Occupation Tax Act was repealed by Public Act 95-233 and reinstated by PA 95-707. PA 95-233 became effective on August 16, 2007. The Department administered the repeal of the exemption beginning on September 1, 2007 to allow retailers sufficient time to become aware of the repeal of the exemption. PA 95-707 became effective on January 11, 2008. The Department began administering the reinstatement of the exemption on that date.

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

Terry D. Charlton
Senior Counsel, Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

The full text of the Adopted Amendment begins on the next page:
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**TITLE 86: REVENUE**

**CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130**

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130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
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130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card
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SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

   a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;

   b) of real property, such as lands and buildings that are permanently attached to the land;

   c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);

   d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);

   e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
f) that are isolated or occasional (see Section 130.110 of this Subpart);

g) of newspapers and magazines (see Section 130.2105 of this Part);

h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);

i) that are made to any governmental body (see Section 130.2080 of this Part);

j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);

k) of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part);

l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);

m) except as otherwise provided in Section 130.605(b)(1)(A), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);

n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to
merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);

o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;

p) of farm chemicals (see Section 130.1955 of this Part);

q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;

r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;

s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].

1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.

2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;

t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including
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individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);

u) through June 30, 2003, of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];

v) through June 30, 2003, and beginning again on September 1, 2004, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);

w) through August 31, 2007, and beginning again on January 11, 2008, a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];

x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);

y) through June 30, 2003, of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];

z) of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];

aa) of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection
(aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations (35 ILCS 120/2-5(9)) (see Section 130.2004 of this Part);

bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (35 ILCS 120/2-5(10)) (see Section 130.2008);

cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion (35 ILCS 120/2-5(11)), unless the items are transferred as jewelry and therefore subject to tax;

dd) through June 30, 2003, of oil field exploration, drilling and production equipment (35 ILCS 120/2-5(19)) (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts (35 ILCS 120/2-5(20)) (see Section 130.2000);

ff) through June 30, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment (35 ILCS 120/2-5(21)) (see Section 130.350);

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers (35 ILCS 120/2-5(22)) (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. (35 ILCS 120/2-5(26)) Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the
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Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of
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infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

kk) of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];

ll) until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

mm) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);

nn) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);

oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];
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pp) through June 30, 2003, of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];

qq) beginning July 20, 1999, game or game birds purchased at:

1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

rr) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:

1) for the benefit of private home instruction; or

2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];

ss) of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a
common location and redistribution to other employees or agents for delivery to
an ultimate destination on an item-by-item basis, and which:

1) will make an investment in a business enterprise project of $100,000,000
or more;

2) will cause the creation of at least 750 to 1,000 jobs or more in an
enterprise zone established pursuant to the Illinois Enterprise Zone Act;
and

3) is certified by the Department of Commerce and Economic Opportunity as
contractually obligated to meet the requirements specified in subsection
(11)(1) and (2) within the time period as specified by the certification. The
certificate of eligibility for exemption shall be presented by the business
enterprise to its supplier when making the initial purchase of machinery
and equipment for which an exemption is granted by Section 1j of the Act,
together with a certification by the business enterprise that such
machinery and equipment is exempt from taxation under Section 1j of the
Act and by indicating the exempt status of each subsequent purchase on
the face of the purchase order [35 ILCS 120/1i];

of jet fuel and petroleum products sold to and used in the conduct of its business
of sorting, handling and redistribution of mail, freight, cargo or other parcels in
the operation of a high impact service facility located within an enterprise zone
established pursuant to the Illinois Enterprise Zone Act, provided that the
business enterprise has waived its right to a tax exemption of the charges imposed
under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact
service facilities qualifying under the Act and seeking the exemption under
Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section
9-222.1 of the Public Utilities Act. High impact service facilities qualifying under
the Act and seeking the exemption under Section 9-222.1 of the Public Utilities
Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of
the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be
presented by the business enterprise to its supplier when making the purchase of
jet fuel and petroleum products for which an exemption is granted by Section 1j.1
of the Act, together with a certification by the business enterprise that such jet
fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act,
and by indicating the exempt status of each subsequent purchase on the face of
the purchase order [35 ILCS 120/1i];
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uu) of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)] Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

vv) of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5 (36)];
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Beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.)

(Source: Amended at 32 Ill. Reg. 10207, effective June 24, 2008)
STATE BOARD OF EDUCATION

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1) **Heading of the Part**: Public Schools Evaluation, Recognition and Supervision

2) **Code Citation**: 23 Ill. Adm. Code 1

3) **Section Numbers**:

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4) **Statutory Authority**: 105 ILCS 5/2-3.6

5) **Effective Date of Amendments**: June 30, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** The amendments do contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act. This is found in existing language in Section 1.420(s).

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: November 9, 2007; 31 Ill. Reg. 15027

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version**: Section 1.420(o) was substantially rewritten to provide more flexibility for districts in their provision of library media services.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were requested by JCAR, and no agreements letter was issued.
STATE BOARD OF EDUCATION

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

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: Last year, several related inquiries brought into focus a need to clarify the meaning of Section 1.420, Media Services. The previous language of that rule was vague, stating only that, "Each attendance center shall provide a program of media services to meet the curricular and instructional needs of the school." As such, the rule did not provide any concrete standards against which compliance could be gauged, nor did it ensure uniform understanding of the characteristics of an adequate program. The adopted version of the amendment identifies those characteristics and offers districts several options intended to be responsive to a variety of local needs.

This rulemaking also includes a number of unrelated provisions that needed to be updated for various reasons.

Section 1.100 (Waiver and Modification of State Board Rules and School Code Mandates) was revised to reflect changes made by Public Act 95-223, which established limits on waivers and modifications of Section 27-6 of the School Code (Courses in Physical Education Required; Special Activities).

The changes to Section 1.245 (Waiver of School Fees) clarify districts' authority to verify income for the purposes of granting fee waivers for students who are eligible for free and reduced-priced meals under the federal meals program.

Section 1.310 (Administrative Qualifications and Responsibilities) has been updated to reflect the repeal of Appendix B to Part 1 and its replacement by new Section 1.705.

Sections 1.430 and 1.440 set forth specific requirements applicable to elementary schools and high schools, respectively. Public Act 95-299 required a change in Section 1.440, in that school boards may now adopt policies so that, under certain specified circumstances, students in Grades 7 and 8 may enroll in high school classes and receive credit toward graduation for completing them. The rule on requirements for graduation must, therefore, acknowledge that not all the required coursework will necessarily have been completed in Grades 9 through 12.

This amendment also provided an opportunity to revise both Sections 1.430 and 1.440 to indicate more clearly what is meant by several portions of the School Code that require instruction in history and government-related topics.
New material in Section 1.510 (Transportation) responds to Public Act 95-260, which added a new provision to the Vehicle Code requiring school districts to adopt policies to ensure that children are not unintentionally left on school buses.

Section 1.515 (Training of School Bus Driver Instructors) has been strengthened with regard to the qualifications required. Under subsection (a)(3), instructors must have had training in first aid, and this amendment ensures that the training will have been reasonably recent.

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

Christine Schmitt
Accountability Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/782-2948

The full text of the Adopted Amendments begins on the next page:
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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

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1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
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1.70 Additional Indicators for Adequate Yearly Progress
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1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
1.90 System of Rewards and Recognition – The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates

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SUBPART A: RECOGNITION REQUIREMENTS

Section 1.100 Waiver and Modification of State Board Rules and School Code Mandates
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a) As authorized in Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g], a school district or independent authority established pursuant to Section 2-3.25f of the School Code [105 ILCS 5/2-3.25f], a joint agreement made up of school districts, or a Regional Superintendent of Schools applying on behalf of a school or program operated by the regional office of education, or, as authorized under Sections 13A-5 and 13A-10 of the School Code [105 ILCS 5/13A-5 and 13A-10] with respect to regional safe schools programs, the governing board of an Intermediate Service Center operating such a program may petition for:

1) State Board approval of waivers or modifications of State Board of Education rules and of modifications of School Code mandates to allow a district to meet the intent of the rule or mandate in a more effective, efficient or economical manner or when necessary to stimulate innovation or to improve student performance; and/or

2) General Assembly approval of waivers of School Code mandates as necessary to stimulate innovation or improve student performance.

b) "The School Code" comprises only those statutes compiled at 105 ILCS 5. Waivers from State Board rules or School Code mandates pertaining to special education, teacher certification, or teacher tenure and seniority are not permitted (Section 2-3.25g of the School Code). Waivers of mandates contained in Section 5-1 of the School Code [105 ILCS 5/5-1] or in Section 5-2.1 of the School Code [105 ILCS 5/5-2.1] also shall not be requested. Further, pursuant to Section 2-3.25g of the School Code, waivers may not be requested from compliance with any provision of the School Code or the rules of the State Board of Education that reflects or implements the No Child Left Behind Act of 2001 (Public Law 107-110), which shall include all requirements for:

1) the entities to be held accountable for the achievement of their students;

2) the participation of students in the various forms of the State assessment;

3) the timing of administration of the State assessment;

4) the use of students' scores on the State assessment in describing the status of schools, districts, and other accountable entities;
5) the use of indicators other than test scores in determining the progress of students;

6) the required qualifications of paraprofessionals;

7) the placement of schools not making adequate yearly progress on academic early warning status or academic watch status, and the results to schools and districts that follow from such placement;

8) the district's responsibility to prepare revised school and/or district improvement plans in response to placement on academic warning or watch status;

9) the appointment of school or district improvement panels for schools or school districts on academic watch status;

10) the use of State interventions according to the timeline set forth in Section 2-3.25f of the School Code; and

11) the appeals process set forth in Section 1.95 of this Part, and the authority of the State Board of Education to make final determinations on such appeals.

c) Each application for a waiver or modification shall provide the following, on a form supplied by the State Board of Education.

1) Identification of the rules or mandates involved, either by quoting the exact language of or by providing a citation to the rules or mandates at issue. Applicants unable to determine the exact language or citation may obtain a copy of, or citation to, the rules or mandates involved by contacting the State Board of Education Legal Department by mail at 100 North First Street, Springfield, Illinois, 62777-0001, or by telephone at 217-782-5270.

2) Identification as to the specific waivers and/or modifications sought. For modifications, the specific modified wording of the rules or mandates must be stated.

3) Identification as to whether the request is for an initial waiver or
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modification or for the renewal of a previously approved request. Renewals of waivers and modifications of Section 27-6 of the School Code [105 ILCS 5/27-6] shall be subject to the requirements of subsection (l) of this Section.

4) For requests based upon meeting the intent of the rule or mandate in a more effective, efficient, or economical manner, a narrative description that which sets forth:

A) the intent of the rule or mandate to be achieved,

B) the manner in which the applicant will meet that intent,

C) how the manner proposed by the applicant will be more effective, efficient or economical, and

D) if the applicant proposes a more economical manner, a fiscal analysis showing current expenditures related to the request and the projected savings that would result from approval of the request.

5) If the request is necessary for stimulating innovation or improving student performance, the request must include the specific plan for improved student performance and school improvement upon which the request is based. This plan must include a description of how the applicant will determine success in the stimulation of innovation or the improvement of student performance.

6) If the request is for a waiver of the administration expenditure limitation established by Section 17-1.5 of the School Code [105 ILCS 5/17-1.5], the request must include the amount, nature, and reason for the requested relief and all remedies that have been exhausted to comply with the administration expenditure limitation and shall otherwise comply with Section 17-1.5(d) of the School Code.

7) The time period for which the waiver or modification is sought. Pursuant to Section 2-3.25g of the School Code, this such time period may not exceed five years, except for requests made pursuant to subsection (c)(6) of this Section, which may not exceed one year (see Section 17-1.5(d) of
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the School Code, and except for requests for relief from the mandate set forth in Section 27-6 of the School Code, which may not exceed two years.

8) A description of the public hearing held to take testimony about the request from educators, parents and students, which shall include the information required by Section 2-3.25g of the School Code.

9) An assurance stating the date of the public hearing conducted to consider the application and, if applicable, the specific plan for improved student performance and school improvement, held as prescribed in Section 2-3.25g of the School Code, and stating the date the application (and, if applicable, the plan) was approved by the local governing board.

d) Each applicant must attach to the application a copy of the notice published in a newspaper of general circulation and a copy of the written notifications provided to the applicant's collective bargaining agent and to those State legislators representing the applicant, each of which must comply with the requirements of Section 2-3.25g of the School Code.

e) Applications must be sent by certified mail, return receipt requested, and addressed as specified on the application form.

f) Applications must be postmarked not later than 15 calendar days following the local governing board's approval. Applications addressed other than as specified on the application form shall not be processed.

g) Applications for the waiver or modification of State Board rules or for the modification of School Code mandates shall be deemed approved and effective 46 calendar days after the date of receipt by the State Board of Education unless disapproved in writing. Receipt by the State Board shall be determined by the date of receipt shown on the return receipt form, except in the case of an incomplete application.

1) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information.

2) The 45-day response time referred to in this subsection (g) shall not commence until the applicant submits the additional material requested by
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the State Board, which shall be sent by certified mail, return receipt requested.

3) Incomplete requests will not be considered.

h) The State Board may disapprove a request for the waiver or modification of State Board rules or for the modification of School Code mandates if the request:

1) is not based upon sound educational practices,
2) endangers the health or safety of students or staff,
3) compromises equal opportunities for learning, or
4) does not address the intent of the rule or mandate in a more effective, efficient or economical manner or does not have improved student performance as a primary goal.

i) Disapproval of an application for a waiver or modification of a State Board rule or for a modification of a School Code mandate shall be sent by certified mail to the applicant no later than 45 calendar days after receipt of the application by the State Board. An applicant wishing to appeal the denial of a request may do so within 30 calendar days after receipt of the denial letter by sending a written appeal by certified mail to the Illinois State Board of Education, Rules and Waivers Unit, 100 North First Street, S-493, Springfield, Illinois 62777-0001. The written appeal shall include the date the local governing board approved the original request, the citation of the rule or School Code section involved, and a brief description of the issue. Appeals of denials shall be submitted to the General Assembly in the semiannual report required under Section 2-3.25g of the School Code.

j) Applications for General Assembly approval of waivers of School Code mandates will be reviewed for completeness. Each incomplete application shall be returned to the applicant with an explanation as to the deficiencies. Complete applications shall be submitted to the General Assembly in the semiannual report required under Section 2-3.25g of the School Code. The State Board of Education shall periodically notify school districts and other potential applicants of the date by which applications must be postmarked in order to be processed for inclusion in the next report to the General Assembly.
The State Board of Education shall notify Regional Superintendents of Schools of the disposition of requests for waivers or modifications submitted by school districts located within their regions.

The limitation on renewals established in Section 2-3.25g(e) of the School Code shall apply to each waiver or modification of Section 27-6 of the School Code that is approved on or after January 1, 2008. Once an eligible applicant has received approval for a waiver or modification of that Section on or after January 1, 2008, any request submitted by that applicant for a subsequent time period shall be considered a renewal request, regardless of the rationale for the request or the schools or students to be affected. No applicant shall receive approval for more than two renewals after January 1, 2008, and no applicant shall receive approval for more than six years cumulatively beginning with that date.

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

SUBPART B: SCHOOL GOVERNANCE

Section 1.245 Waiver of School Fees

This Section provides the rules required by Section 2-3.96 of the School Code under which each school district is required to adopt a written policy for the waiver of school fees as required by Sections 10-20.13 and 34-21.6 of the School Code [105 ILCS 5/10-20.13 and 34-21.6].

For the purposes of this Section "school fees" or "fees" means any monetary charge collected by a public school or public school district from a student or the parents or guardian of a student as a prerequisite for the student's participation in any curricular or extracurricular program of the school or school district. A school or school district does not impose a "fee" when it requires that a student provide his or her own ordinary supplies or materials (e.g., pencil, paper, notebooks), which are necessary to participate in any curricular or extracurricular program.

1) "School fees" include, but are not limited to, the following:

A) All charges for required textbooks and instructional materials.

B) All charges and deposits collected by a school for use of school
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property (e.g., locks, towels, laboratory equipment).

C) Charges for field trips made during school hours, or made after school hours if the field trip is a required or customary part of a class or extracurricular activity (e.g., annually scheduled trips to museums, concerts, places of business and industry or field trips related to instruction in social studies, the fine arts, career/vocational education or the sciences).

D) Charges or deposits for uniforms or equipment related to varsity and intramural sports, or to fine arts programs.

E) Charges for supplies required for a particular class (e.g., shop or home economics materials, laboratory or art supplies).

F) Graduation fees (e.g., caps, gowns).

G) School records fees.

H) School health services fees.

I) Driver's education fees assessed pursuant to Section 27-23 of the School Code [105 ILCS 5/27-23].

2) "School fees" do not include:

A) Library fines and other charges made for the loss, misuse, or destruction of school property (e.g., musical instruments).

B) Charges for the purchase of class rings, yearbooks, pictures, diploma covers or similar items.

C) Charges for optional travel undertaken by a school club or group of students outside of school hours (e.g., a trip to Spain by the Spanish club or a senior class trip).

D) Charges for admission to school dances, athletic events or other social events.
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E) Optional community service programs for which fees are charged (e.g., preschool, before- and after-school child care, recreation programs).

b) School boards that do not charge school fees must adopt a policy so stating. Parents must be notified of this policy as provided in this Section.

c) School boards that charge school fees must adopt a policy and procedures containing at least the following elements:

1) Eligibility Criteria Standards to determine eligibility

   A) Eligibility criteria Standards must include a waiver of fees for all students who qualify for free lunches or breakfasts under the Community-School Breakfast and Lunch Program Act [105 ILCS 125]. Students must meet the income requirements of the program but need not participate in order to receive a waiver of school fees.

   B) Eligibility criteria Standards must also include a description of other extenuating circumstances under which the district will grant a waiver of school fees. Examples include: students who are eligible to receive reduced-price lunch or breakfast; very significant loss of income due to severe illness or injury in the family or unusual expenses such as fire, flood, or storm damage; or similar emergency situations that the district determines to include in its policy.

2) Notification of parents

   A) The district's policy for the waiver of school fees shall be communicated in writing to the parents of all students enrolling in the district for the first time. A fee waiver application form also may be included with this notice when it is sent to parents. The notification must be in English or the home language of the parents, if it is needed to ensure their understanding of the district's policy (if translation of the notice is not feasible, the use of interpreters is permitted, e.g., other students or neighbors). The notice shall at least describe:
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i) the district's policy, including the criteria and other circumstances under which the district will waive school fees;

ii) the fees subject to waiver under the district's policy;

iii) the procedure to be used by parents in applying for a waiver of school fees, including the availability of forms that may be used to request a fee waiver and the documents whose use is required by the school district in verifying income as permitted under subsection (d) of this Section; and

iv) the procedure to be used by parents in resolving disputes concerning the waiver of school fees.

B) The district's policy also shall provide that the first bill or notice of each school year sent to parents who owe fees shall state:

i) the district waives fees for persons unable to afford them in accordance with its policy; and

ii) the procedure for applying for a fee waiver, or the name, address and telephone number of the person to contact for information concerning a fee waiver.

3) Procedures for the resolution of disputes

A) The district's policy must provide that if it denies a request for a fee waiver, then it shall mail a copy of its decision to the parents within 30 calendar days after receipt of the request. The decision shall state the reason for the denial and shall inform the parents of their right to appeal, including the process and timelines for that action. The denial notice shall also include a statement informing the parents that they may reapply for a waiver any time during the school year, if circumstances change.

B) An appeal shall be decided within 30 calendar days after the receipt of the parents' request for an appeal. Parents shall have the
right to meet with the person who will decide the appeal in order to explain why the fee waiver should be granted. The person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person. If the appeal is denied, then the district shall mail a copy of its decision to the parents. The decision shall state the reason for the denial.

C) No fee shall be collected from any parent who is seeking a fee waiver in accordance with the district's policy until the district has acted on the initial request or appeal (if any is made), and the parents have been notified of its decision.

d) A school district may make reasonable requirements for verifying a family's income (e.g., payroll stubs, tax returns, evidence of receipt of food stamps or Temporary Assistance for Needy Families) in order to determine eligibility for a school fee waiver; however, for students approved for free or reduced-price meals under the School Breakfast Program (42 USC 1771 et seq.) and/or the National School Lunch Program (42 USC 1751 et seq.), verification shall be conducted within the limitations set forth in 42 USC 1758.

e) If the fee waiver policy and/or procedures are substantively amended, then parents of students enrolled in the district must be notified in writing within 30 calendar days following the adoption of the amendments.

f) School records that identify individual students as applicants for or recipients of fee waivers are subject to the Illinois School Student Records Act [105 ILCS 10]. Information from such records is confidential and may be disclosed only as provided in the Act.

g) No discrimination or punishment of any kind, including the lowering of grades or exclusion from classes, may be exercised against a student whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees [105 ILCS 5/28-19.2(a)].

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section 1.310 Administrative Qualifications and Responsibilities
Administrators and supervisors shall be appropriately certificated, meeting the requirements stated in Section 21-7.1 of the School Code [105 ILCS 5/21-7.1] and Section 1.705 Appendix B of this Part.

a) Chief school business officials, effective July 1, 1977, shall be appropriately certificated, meeting the requirements stated in Section 21-7.1 of the School Code.

b) Department chairpersons who are required to supervise and/or evaluate teachers shall meet the applicable requirements of Section 1.705 have appropriate certification as indicated in Appendix B of this Part. (See also Section 21-7.1 of the School Code.) This regulation shall apply only to those individuals first assigned to this position on or after September 1, 1978.

c) Divided Service

1) An administrator, i.e., a superintendent or principal, may serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position.

2) In school districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach (up to ½ day).

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.420 Basic Standards

a) Class schedules shall be maintained in the administrative office in each attendance center of a school district.

b) Every school district shall have an organized plan for recording pupil progress and/or awarding credit that can be disseminated to other schools within the State.

c) Every school district shall:

1) Provide curricula and staff inservice training to help eliminate
unconstitutional and unlawful discrimination in our schools and society. School districts shall utilize the resources of the community in achieving the stated objective of elimination of discrimination and to enrich the instructional program.

2) Include in its instructional program concepts which are designed to improve students' understanding of and their relationships with individuals and groups of different ages, sexes, races, national origins, religions, and socio-economic backgrounds.

d) Boards shall adopt and implement a policy for the distribution of teaching assignments, including study hall and extra class duties and responsibilities.

e) Every school system shall conduct supervisory and inservice programs for its professional staff. The staff shall be involved in planning, conducting, and evaluating supervisory and inservice programs.

f) Sections 10-19, 18-8.05, and 18-12 of the School Code [105 ILCS 5/10-19, 18-8.05, and 18-12] establish certain requirements regarding the school year and the school day. School districts shall observe these requirements when preparing their calendars and when calculating average daily attendance for the purpose of claiming general State financial aid.

1) Section 18-8.05(F)(2)(c) of the School Code provides that, with the approval of the State Superintendent of Education, four or more clock-hours of instruction may be counted as a day of attendance when the regional superintendent certifies that the district has been forced to use multiple sessions. The State Superintendent's approval will be granted when the district demonstrates that its facilities are inadequate to house a program offering five clock-hours daily to all students.

A) The State Superintendent's approval shall be requested before the beginning of the school year.

B) The school district's request shall include a copy of the minutes of the meeting at which the board of education approved the plan for multiple sessions; a plan for remedying the situation leading to the request; and a daily schedule showing that each student will be in class for at least four clock-hours.
C) Requests for extensions of the State Superintendent's approval shall be made annually prior to the opening of school.

2) Section 18-8.05(F)(2)(h) of the School Code allows for a determination under rules of the State Board regarding the necessity for a second year's attendance at kindergarten for certain students so they may be included in a district's calculation of average daily attendance. Districts may count such students when they determine through an assessment of their individual educational development that a second year of kindergarten is warranted.

3) A school district shall be considered to have conducted a legal school day, which is eligible to be counted for General State Aid, when the following conditions are met during a work stoppage.

A) Fifty percent or more of the district's students are in attendance, based on the average daily attendance during the most recent full month of attendance prior to the work stoppage.

B) Educational programs are available at all grade levels in the district, in accordance with the minimum standards set forth in this Part.

C) All teachers hold certificates that are registered with the Regional Superintendent for their county of employment. Other than substitute teachers, certification appropriate to the grade level and subject area(s) of instruction is held by all teachers.

4) Attendance for General State Aid Purposes

A) For purposes of determining average daily attendance on the district's General State Aid claim, students in full-day kindergarten and first grade may be counted for a full day of attendance only when they are in attendance for four or more clock hours of school work; provided, however, that students in attendance for more than two clock hours of school work but less than four clock hours may be counted for a half day of attendance.
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B) For purposes of determining average daily attendance on the district's General State Aid claim, students in grades 2 through 12 may be counted for a full day of attendance only when they are in attendance for five or more clock hours of school work; provided, however, that students in attendance for more than two and one-half clock hours of school work but less than five clock hours may be counted for a half day of attendance.

g) Each school board shall annually prepare a calendar for the school term, specifying the opening and closing dates and providing a minimum term of at least 185 days to ensure 176 days of actual pupil attendance, computable under Section 18-8.05 of the School Code.

h) Local boards of education shall establish and maintain kindergartens for the instruction of children (see Sections 10-20.19a and 10-22.18 of the School Code [105 ILCS 5/10-20.19a and 10-22.18]).

1) School districts may establish a kindergarten of either half-day or full-day duration. If the district establishes a full-day kindergarten, it must also provide a half-day kindergarten for those students whose parents or guardians request a half-day program.

2) If a school district that establishes a full-day kindergarten also has 20 or more students whose parents request a half-day program, the district must schedule half-day classes, separate and apart from full-day classes, for those children. If there are fewer than 20 children whose parents request a half-day program, those students may be enrolled in either the morning or afternoon session of a full-day program provided that the following conditions are met.

A) Distinctive curriculum plans for the half-day and full-day kindergarten programs must be developed by the school district, made available to parents to assist the parents in selecting the appropriate program for their child, and maintained in district files.

B) A common core of developmental, readiness and academic activities must be made available to all kindergarten students in the district regardless of the amount of time they attend school.
C) All support services (e.g., health counseling and transportation) provided by the district must be equally available to full-day and half-day students.

i) Career Education

1) The educational system shall provide students with opportunities to prepare themselves for entry into the world of work.

2) Every district shall initiate a Career Awareness and Exploration Program that should enable students to make more meaningful and informed career decisions. This program should be available at all grade levels.

j) Co-Curricular Activities

1) Programs for extra classroom activities shall provide opportunities for all students.

2) The desires of the student body in the area of co-curricular activities shall be of critical importance. At all times, activities of this nature shall be carefully supervised by a school-approved sponsor.

k) Consumer Education and Protection

1) A program in consumer education may include the following topics: the individual consumer in the marketplace, money management, consumer credit, human services (housing, food, transportation), clothing, health services, drugs and cosmetics, recreation, furnishings and appliances, insurance, savings and investments, taxes, and the consumer in our economy.

2) The superintendent of each unit or high school district shall maintain evidence showing that each student has received adequate instruction in consumer education or has demonstrated proficiency by passing the Consumer Education Proficiency Test as required by law (see Section 27-12.1 of the School Code [105 ILCS 5/27-12.1]) prior to the completion of the 12th grade. Consumer education may be included in course content of other courses, or it may be taught as a separate required course.
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3) The minimal time allocation shall not be less than nine weeks or the equivalent for grades 9-12 and shall include installment purchasing, budgeting, comparison of prices and an understanding of the roles of consumers interacting with agriculture, business, trade unions, and government in formulating and achieving the goals of the mixed free enterprise system.

4) Each district may use as a guideline the information set forth in "Consumer Education in Illinois Schools" issued by the State Board of Education.

5) Teachers instructing in consumer education courses shall have proper certification for the position to which they are assigned with at least three semester hours in consumer education courses.

l) Conservation of Natural Resources
Each district shall provide instruction on current problems and needs in the conservation of natural resources, including, but not limited to, air pollution, water pollution, waste reduction and recycling, the effect of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife, and humane care of domestic animals (Section 27-13.1 of the School Code [105 ILCS 5/27-13.1]).

m) Every school district has the responsibility to prepare students for full citizenship. To this end each school district should encourage student discussion and communication in areas of local, State, national and international concern.

n) Health Education

1) Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].

   A) There is no specific time requirement for grades K-6; however, health education shall be a part of the formal regular instructional program at each grade level.

   B) The minimal time allocation shall not be less than one semester or equivalent during the middle or junior high experience.
C) The minimal time allocation shall not be less than one semester or equivalent during the secondary school experience.

D) If health education is offered in conjunction with another course on a "block of time" basis in a middle school, a junior high school, or a high school, instruction may be offered in any combination of the grade levels in the school, provided that the total time devoted to health education is the equivalent of one full semester's work.

2) Nothing in this Section shall be construed as requiring or preventing the establishment of classes or courses in comprehensive sex education or family life education as authorized by Sections 27-9.1 and 27-9.2 of the School Code [105 ILCS 5/27-9.1 and 27-9.2] or by the Sex Education Act [105 ILCS 130].

o) Library Media Programs
Each school district attendance center shall provide a program of library media services for the students in each of its schools to meet the curricular and instructional needs of the school. Each district's program shall meet the requirements of this subsection (o).

1) General
The program shall include an organized collection of resources that circulate to students and staff in order to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served. No later than the beginning of the 2014-15 school year, a district that relies solely upon the collection of a local public library shall maintain evidence that students receive instruction, direction, or assistance in locating and using resources that are applicable to these purposes from an individual who is qualified under Section 1.755 of this Part and who is acting on behalf of the school district.

2) Financial Resources
Each district's annual budget shall include an identifiable allocation for resources and supplies for the program, except that a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students may demonstrate that it is meeting its students'
needs through alternate means that the district has determined are adequate in light of local circumstances.

3) Facilities
If there is no single location within a particular attendance center that is specifically devoted to a library media center, such as where classroom collections have been established instead, the district shall ensure that equitable access to library media resources is made available to students in all the grade levels served. If students’ only access to library media resources is achieved by visiting a location outside their attendance center, the district shall maintain records demonstrating that all students’ regular schedules include time for this purpose.

4) Staff
Nothing in this subsection (o)(4) shall be construed as prohibiting districts or schools from sharing the services of individuals qualified under Section 1.755 of this Part. No later than the beginning of the 2009-10 school year, each district shall assign responsibility for overall direction of its program of library media services to an employee who holds an elementary, a secondary, a special K-12, a special preschool-age 21, an early childhood, or an administrative certificate. Except as otherwise provided in subsection (o)(4)(A) of this Section, the individual to whom this responsibility is assigned shall meet the requirements of Section 1.755 of this Part.

A) In the event that no employee of the district holds any of the qualifications enumerated in Section 1.755 of this Part, the individual to whom direction of the program is assigned shall be required to participate annually in professional development consisting of:

i) undergraduate or graduate coursework in library science offered by a regionally accredited institution of higher education; or

ii) one or more workshops, seminars, conferences, institutes, symposia, or other similar training events that are offered by the Illinois State Library, a regional library system, or another professional librarians’ organization; or
iii) one or more "library academies" if these are made available by or at the direction of the State Superintendent of Education.

B) A district that is otherwise unable to fulfill the requirements of this subsection (o)(4) shall ensure that the overall direction of the library media program (e.g., selection and organization of materials, provision of instruction in information and technology literacy, structuring the work of library paraprofessionals) is accomplished with the advice of an individual who is qualified pursuant to Section 1.755 of this Part.

p) Physical Education

1) Appropriate activity related to physical education shall be required of all students each day unless otherwise permitted by Section 27-6 of the School Code [105 ILCS 5/27-6]. The time schedule shall compare favorably with other courses in the curriculum. Safety education as it relates to the physical education program should be incorporated.

2) There shall be a definite school policy regarding credit earned each semester in physical education with provisions for allowable variables in special cases.

3) If a district determines that it is difficult to implement a program of physical education that involves all students daily, the administration should consult one of the program service personnel from the State Board of Education for assistance in the development of an acceptable program.

4) The physical education and training course offered in grades 5 through 10 may include health education (Section 27-5 of the School Code [105 ILCS 5/27-5]).

5) Special activities in physical education shall be provided for pupils whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act [225 ILCS 60], prevents their participation in the courses provided for normal children (Section 27-6 of the School Code).
Pursuant to Section 27-6 of the School Code, a student who presents an appropriate excuse from his or her parent or guardian or from a person licensed under the Medical Practice Act of 1987 shall be excused from participation in physical education. Each school board shall honor excuses signed by persons licensed under the Medical Practice Act of 1987 and shall establish a policy defining the types of parental excuses it will deem "appropriate" for this purpose, which shall include, but need not be limited to, reliance upon religious prohibitions. A board shall, however, have no authority to honor parental excuses based upon students' participation in athletic training, activities, or competitions conducted outside the auspices of the school district. For each type of excuse that will be considered "appropriate", the school board shall identify in its policy any evidence or support it will require. For example, a board may require a signed statement from a member of the clergy corroborating the religious basis of a request.

In addition, pursuant to Section 27-6(b) of the School Code, each school board that chooses to excuse pupils enrolled in grades 9 through 12 from engaging in physical education courses under that subsection shall establish a policy to excuse pupils on an individual basis and shall have such policy on file in the local district office. The district shall maintain records showing that, in disposing of each request to be excused from physical education, the district applied the criteria set forth in Section 27-6 to the student's individual circumstances.

Pupil Personnel Services
To assure provision of Pupil Personnel Services, the local district shall conduct a comprehensive needs assessment to determine the scope of the needs in the areas of:

1) Guidance and Counseling Needs;
2) Psychological Needs;
3) Social Work Needs;
4) Health Needs.
r) Social Sciences and History
Each school system shall provide history and social sciences courses that do the following:

1) analyze the principles of representative government, the Constitutions of both the United States and the State of Illinois, the proper use of the flag, and how these concepts have related and currently do relate in actual practice in our world (see Section 27-21 of the School Code [105 ILCS 5/27-21]);

2) include in the teaching of United States history the role and contributions of ethnic groups in the history of this country and the State (Section 27-21 of the School Code);

3) include in the teaching of United States history the role of labor unions and their interaction with government in achieving the goals of a mixed free-enterprise system (Section 27-21 of the School Code);

4) include the study of that period in world history known as the Holocaust (Section 27-20.3 of the School Code [105 ILCS 5/27-20.3]);

5) include the study of the events of Black history, including the individual contributions of African-Americans and their collective socio-economic struggles (Section 27-20.4 of the School Code [105 ILCS 5/27-20.4]); and

6) include the study of the events of women's history in America, including individual contributions and women's struggles for the right to vote and for equal treatment (Section 27-20.5 of the School Code [105 ILCS 5/27-20.5]).

s) Protective eye devices shall be provided to and worn by all students, teachers, and visitors when participating in or observing dangerous vocational arts and chemical-physical courses of laboratories as specified in Section 1 of the Eye Protection in School Act [105 ILCS 115/1]. Such eye protective devices shall meet the nationally accepted standards set forth in "Practice for Occupational and Educational Eye and Face Protection", ANSI Z87.1-2003, issued by the American National Standards Institute, Inc., 1819 L Street, NW, Suite 600, Washington, D.C. 20036. No later additions or amendments to these standards are incorporated by this Part.
In every public school there shall be instruction, study and discussion of effective methods by which pupils may recognize the danger of and avoid abduction. Such required instruction, study and discussion may be included in the courses of study regularly taught in the schools. In grades kindergarten through 8, such required instruction must be given each year to all pupils in those grades. (Section 27-13.2 of the School Code [105 ILCS 5/27-13.2])

School districts shall provide instruction in relation to the prevention of abuse of anabolic steroids in grades 7 through 12 and shall include such instruction in science, health, drug abuse, physical education or other appropriate courses of study. Such instruction shall emphasize that the use of anabolic steroids presents a serious health hazard to persons who use steroids to enhance athletic performance or physical development. (Section 27-23.3 of the School Code [105 ILCS 5/27-23.3])

Section 1.430 Additional Criteria for Elementary Schools

A district shall provide the following coordinated and supervised courses of study. The time allotment, unless specified by the School Code or applicable rules, is the option of the local board of education.

1) Language Arts, Reading and other Communication Skills
2) Science
3) Mathematics
4) Social Studies
5) Music
6) Art
7) Health Education (see the Critical Health Problems and Comprehensive Health Education Act)
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8) Physical Education (see Section 27-6 of the School Code)

9) Career Education – Awareness and Exploration

10) Safety Education (see Section 27-17 of the School Code)

11) Conservation of Natural Resources (see Section 27-13.1 of the School Code)

12) Instruction, study, and discussion in grades kindergarten through 8 of effective methods for the prevention and avoidance of drug and substance abuse (Section 27-13.2 of the School Code)

b) American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag shall be taught in all public schools. Not less than one hour per week, or the equivalent, shall be devoted to the study of this subject matter in the 7th and 8th grade or the equivalent, and no student shall receive a certificate of graduation without passing an examination on these subjects (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4]).

c) No student shall be graduated from the 8th grade unless he or she has received instruction in the history of the United States and has given evidence of comprehensive knowledge of the subject (Section 27-21 of the School Code), which may include, without limitation, a written test or the teacher's evaluation of the student's work. No student shall receive certification of graduation without passing a satisfactory examination upon these subjects.

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

Section 1.440 Additional Criteria for High Schools

The School Code establishes differing requirements for the coursework that high schools must offer, the courses students must take, and the courses students must pass in order to graduate.

a) Course Offerings. Each district shall provide a comprehensive curriculum that includes at least the following offerings. The time allotment, unless specified by
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the School Code or applicable rules, is the option of the local school district.

1) Language Arts
2) Science
3) Mathematics
4) History of the United States
5) Foreign Language
6) Music
7) Art
8) Career and Technical Education – Orientation and Preparation
9) Health Education
10) Physical Education
11) Consumer Education
12) Conservation of Natural Resources
13) Driver and Safety Education (see Section 27-23 of the School Code [105 ILCS 5/27-23] and 23 Ill. Adm. Code 252)

b) Required Participation

1) Each student shall be required to take one semester or the equivalent, i.e., at least 18 weeks, of health education during the secondary school experience.

2) Each student shall be required to take physical education daily, except as provided in Section 27-6 of the School Code and Section 1.445 of this Part.
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3) Each student shall be required to take consumer education for 50 minutes per day for a period of nine weeks in any of grades 9-12, unless he or she has demonstrated proficiency pursuant to the provisions of Section 27-12.1 of the School Code [105 ILCS 5/27-12.1] and Section 1.462 of this Part.

4) Each student shall be required to take a course covering American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag for not less than one hour per week, or the equivalent. (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4])

c) Specific Requirements for Graduation. A "unit" is the credit accrued for a year's study or its equivalent. A student may be permitted to retake a course that he or she has already successfully completed (for example, to earn a better grade). However, credit may not be awarded more than once for completion of the same course, and the same course may not be counted more than once toward fulfillment of the State requirements for graduation.

1) Each student shall be required to have accrued at least 16 units in grades 9-12 if graduating from a four-year school or 12 units in grades 10-12 if graduating from a three-year high school. In either case, one unit shall be in American History or American History and Government. (Section 27-22 of the School Code) No student shall receive certification of graduation without passing an examination on the subjects discussed in subsection (b)(4) of this Section.

2) Pursuant to Section 27-22 of the School Code, all students, except students with disabilities whose course of study is determined by an individualized education program, must successfully complete certain courses, depending upon the school year in which they enter the 9th grade and subject to the exceptions provided in Section 1.445 of this Part, as a prerequisite to receiving a high school diploma.

3) Credits earned by students prior to entry into Grade 9 as authorized by Section 27-22.10 of the School Code [105 ILCS 5/27-22.10] may be used...
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to fulfill any of the requirements of subsection (c)(2) of this Section.

d) School districts shall have on file in the local district office a description of all course offerings that may comply with the requirements of the law. A course will be accepted as meeting the relevant requirement for graduation if its description shows that its principal instructional activity is the development and application of knowledge and skills related to the applicable requirement.

1) The course description for a "writing-intensive" course will be accepted for purposes of Section 27-22 of the School Code if:

   A) a goal of the course is to use the writing that students do relative to the subject matter being presented as a vehicle for improving their writing skills;

   B) writing assignments will be an integral part of the course's content across the time span covered by the course;

   C) the written products students are required to prepare in order to receive credit for the course and the feedback students receive are such that:

      i) students' writing proficiency is evaluated against expectations that are appropriate to early or late high school and encompass all of the standards applicable to State Goals 3 and 5 (see the State Goals for Learning and the Illinois Learning Standards in Appendix D to this Part); and

      ii) students receive information from the evaluation of their written products that will permit them to improve their writing skills in terms of correct usage; well-organized composition; communication of ideas for a variety of purposes; and locating, organizing, evaluating, and using information.

2) The writing-intensive study provided in at least one writing-intensive course must be designed to address and integrate the elements of the writing process and to refine or apply research skills.
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e) It is the responsibility of the school district's administration to provide parents and guardians timely and periodic information concerning graduation requirements for all students, particularly in cases where a student's eligibility for graduation may be in question.

f) Additional requirements for graduation may be adopted by local boards of education. Boards of education may accept courses completed in a community college toward graduation.

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

SUBPART E: SUPPORT SERVICES

Section 1.510 Transportation

a) Section 29-3 of the School Code [105 ILCS 5/29-3] requires the school boards of certain school districts to provide free transportation to pupils as delineated in that Section. These school districts may provide free transportation to other students in accordance with the remaining applicable provisions of Article 29 of the School Code [105 ILCS 5/Art. 29]. Districts that are not required to provide free transportation may do so at their option.

b) Each district seeking State reimbursement for pupil transportation shall comply with the provisions of Article 29 of the School Code.

c) Each district that is required to provide free transportation has the responsibility of providing sufficient buses for transporting all eligible pupils.

d) Each school district is required to conform to the equipment standards and regulations established by the Department of Transportation.

e) Each local school board that provides transportation shall designate a person under its direct supervision to ensure adherence to all laws and regulations affecting safe pupil transportation.

f) School bus routing is the responsibility of the local school board. School districts shall arrange school bus stops to maximize safety, so that buses will not have to back up, and so that crossing arms will not infringe upon pedestrian crosswalks or cross streets. School buses are not required to enter private property.
g) Local school boards shall institute policies and practices that promote the safety and well-being of school bus passengers, including provisions that support Section 10-22.6(b) of the School Code [105 ILCS 5/10-22.6(b)]. Local school boards shall require that all school bus drivers who transport pupils have been trained as discussed in Section 1.515 of this Part. The requirements set forth in subsections (h) through (n) of this Section shall serve as minimum statewide requirements for operating a school bus. Transportation for students who receive special education and related services shall be as set forth in the State Board's rules for Special Education (23 Ill. Adm. Code 226). Local school boards may adopt more stringent requirements, at their discretion.

h) Operation of the Bus by the Driver

1) The service door shall be closed at all times when the bus is in motion.

2) Windows shall not be lowered below the stop line painted on the body pillar.

3) The emergency door shall be unlocked but securely latched when operating the school bus.

4) The driver shall not leave the bus while the motor is running.

5) The gasoline tank shall not be filled while there are any persons on the bus or while the motor is running.

6) The school bus signs shall be displayed only when the bus is being used for official school transportation.

7) The required alternately flashing warning lights and stop arm shall be used only when stopping to receive or discharge students.

8) The driver shall not back a bus at the school while students are in the vicinity unless a responsible person is present to guide the bus driver.

9) The driver shall not permit a weapon or explosive of any kind on the bus.

10) The driver shall not smoke when operating a school bus.
i) Passenger Treatment and Supervision

1) All passengers shall be seated when the bus is in motion.

2) Students shall not be asked to leave the bus along the route for breach of discipline, nor shall they be asked to sit anywhere other than on a seat for breach of discipline.

3) The bus driver shall observe the requirements of the district's policy adopted pursuant to Section 12-816 of the Vehicle Code [625 ILCS 5/12-816] with respect to ensuring that no passenger remains on the bus at the end of a route, a work shift, or the work day.

j) Loading and Unloading

1) When children are picked up and must cross a roadway, the driver shall beckon them to cross the road when it is safe to do so.

2) The driver on a regular route shall not be expected to wait for a tardy student and may proceed on a timely route if the student is not in sight.

3) At school, the bus shall be driven onto the school grounds to discharge pupils or they shall be otherwise discharged so they will not have to cross a street if at all possible. At all discharge points where it is necessary for pupils to cross a roadway, the driver shall direct students to a point at least ten feet in front of the bus on the shoulder of the roadway and shall direct them to remain there until a signal is given by the bus driver for the students to cross.

4) A driver shall not allow a student to get off the bus at any place other than the student's designated discharge point unless permission is granted by the proper school official.

5) If a loading zone is not visible to traffic approaching from either direction, the district shall notify the Illinois Department of Transportation and request a determination as to the need to erect appropriate signs.

k) Permitted Occupants
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1) The manufacturer's capacity for a bus shall not be exceeded.

2) Only persons authorized by the school district shall be allowed to ride school buses. Except with the permission of school authorities, the driver shall transport no school children with animals. Any animal transported shall be properly confined at all times when it is on a school bus.

l) Accidents

1) In case of an accident or breakdown while the bus is transporting students, the first consideration shall be whether it is safer to evacuate the students or to have them remain on the bus.

2) All accidents shall be reported immediately to the appropriate school officials.

3) A completed copy of the Illinois Department of Transportation's "Motorist Report of Motor Vehicle Accident Form" (SR-1) shall be forwarded to the regional superintendent immediately after any accident.

4) In case of a death that occurs as a result of a school bus accident, the responsible district official shall immediately notify the regional superintendent by telephone.

m) Railroad Crossings

Each driver of a school bus shall stop at all railroad crossings except where protected by a human flagman or law enforcement officer or marked as having been exempted by the Illinois Commerce Commission pursuant to Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202].

1) The driver shall stop between 15 and 50 feet in front of the first rail. While stopped, the driver shall open the service door, listen and look in both directions for any approaching train. When the driver determines that no train is approaching, he or she shall close the door, then proceed completely across the grade crossing without changing gears.

2) A driver who has stopped at a railroad crossing that is protected only by flashing lights and who determines that no train is, in fact, approaching
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(i.e., a malfunction is apparent) may proceed despite the warning lights, provided that he or she has complied with the requirements of subsection (m)(1) of this Section.

3) The driver shall not use the alternately flashing warning signals or stop arm at railroad grade crossings.

n) School Bus Crossing Arm

1) A school bus driver shall use the school bus crossing arm whenever the bus stops to allow students to enter or leave the bus. The driver shall allow sufficient space for the full extension of the crossing arm without infringing on other vehicles, other obstacles, the pedestrian crosswalk, or a cross street. However, a driver may omit using the crossing arm at school loading areas where school buses are parked bumper to bumper or when extending the crossing arm would impede pedestrians' crossing, extend into the adjacent cross street, or collide with another object or vehicle.

2) A school bus driver shall report to the affected school district any instance when the crossing arm cannot be used as required. School districts shall use this information in evaluating school bus routes and pickup and dropoff points. Districts shall retain these records in a manner consistent with their retention policies applicable to other records.

3) A school bus shall not be used if its crossing arm is found to be inoperable during the pre-trip inspection, or if the crossing arm has malfunctioned and has not yet been repaired.

4) If a crossing arm malfunctions while the school bus is carrying students, the driver shall note the stop where the malfunction first occurs and may complete the route if permitted to do so by local board policy.

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)

Section 1.515 Training of School Bus Driver Instructors

Initial and refresher training is required of all school bus drivers by Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1]. Pursuant to Section 3-14.23 of the School Code [105 ILCS 5/3-14.23], regional superintendents of schools are responsible for conducting
training programs for school bus drivers. These programs shall be established by the State Board of Education and approved by the Secretary of State pursuant to the Secretary's rules titled School Bus Driver Permit (92 Ill. Adm. Code 1035).

a) 92 Ill. Adm. Code 1035.30 of the Secretary's rules requires the certification of bus driver instructors by the State Board of Education. The following standards shall apply to this certification.

1) The person must be at least 21 years of age.

2) The person must hold or have held an Illinois School Bus Driver's Permit, hold a current teaching certificate endorsed for driver education, or have the approval of the regional superintendent as having had other direct involvement in school bus transportation.

3) The person must provide a current, valid card as evidence of having completed a course in first aid from the American Red Cross, the American Heart Association, or another national organization that is recognized by the Illinois Department of Public Health.

4) The person must have assisted a certified instructor in conducting an initial school bus driver training course and a refresher course; the person must also have taught each of these types of courses under the observation of a certified instructor and have received a satisfactory evaluation of overall teaching performance.

5) Certification of bus driver instructors shall be renewed annually. Renewal shall be sought by the regional superintendent of the region where services will be provided, with the permission of the individuals in question and using a form supplied by the State Superintendent of Education. Renewal of certification shall be based on the criteria set forth in subsections (a)(1) through (a)(4) of this Section.

b) The State Superintendent shall notify each regional superintendent of the certification status of all affected instructors in his or her region and of any deficiencies preventing the certification of any individual. The regional superintendent shall be responsible for notifying instructors of their status.
c) The regional superintendent shall be responsible for notifying the employers of all bus drivers who complete initial or refresher training courses.

(Source: Amended at 32 Ill. Reg. 10229, effective June 30, 2008)
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1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

3) Section Numbers: Adopted Action:
   2700.15  Amendment
   2700.20  Amendment
   2700.30  Amendment
   2700.50  Amendment

4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) Effective Date of Amendments: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.


10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: The only changes made were non-substantive in nature.

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 rulemakings currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Several citations referencing Federal Regulations and the Higher Education Reconciliation Act of 2005 (HERA) have been updated
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throughout this Part. In Section 2700.15, the incorporations by reference date has been updated to July 1, 2008 to reflect a change necessitated by HERA. In Section 2700.20, the HERA Public Law number has been updated in the "Independent Student" definition and language has been added to the definition of "PLUS" to include graduate students in addition to parents. In Section 2700.20, the North Central Association of Colleges and Schools Higher Learning Commission has been updated to reflect their current name, the Higher Learning Commission of the North Central Association of Colleges and Schools. This name change has been made in Section 2700.30(i) also. Section 2700.50(c) applicant eligibility has been modified from "must certify" to "is certifying" as that is the action that is occurring. The list of acceptable residency documents in Section 2700.50(g)(5) has been expanded to include the IRS Form 1099-Miscellaneous Income Statements to be used in conjunction with other documentation on that list.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL  60015

PH:  847/948-8500 ext. 3706
FAX:  847/948-5033
email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.15 Incorporations by Reference
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Use, Security and Confidentiality of Data
2700.60 Audits and Investigations
2700.70 Appeal Procedures
2700.80 Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

Section 2700.15 Incorporations by Reference

a) The Commission incorporates by reference 34 CFR 85, 237, 600, 653, 668, 674, 675, 676, 682 and 690 (July 1, 2008 July 1, 2006). No incorporation by reference in this Section includes any later amendment or edition beyond the date stated. The Code of Federal Regulations is available online at: www.gpoaccess.gov.

b) Copies of the appropriate material are available for inspection at the Illinois Student Assistance Commission offices at:

1755 Lake Cook Road, Deerfield IL  60015-5209
500 West Monroe, Springfield IL  62704-1876
100 West Randolph, Suite 3-200, Chicago IL  60601-3219

(Source: Amended at 32 Ill. Reg. 10269, effective July 1, 2008)

Section 2700.20 Definitions

"Academic Level" – The classification of a student as a freshman, sophomore, junior, senior, or graduate student.

"Academic Year" – In relation to scholarship and grant programs, a twelve month period of time, normally from August or September of any year through August or September of the ensuing year. In relation to the Federal Family Education Loan Program, academic year is defined at Section 481(d)(2) of the Higher Education Act of 1965, as amended (HEA), and at 34 CFR 668.3.

"Alternative Loan" – Any educational loan made or purchased by ISAC other than a loan made pursuant to Title IV of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.), or any other federal statute providing for federal insurance of education loans to borrowers.

"Applicant" – Any individual who requests ISAC consideration for a scholarship, grant, tuition waiver, or guaranteed or alternative loan.

"Approved High School" – Any public high school located in this State; and any high school, located in this State or elsewhere (whether designated as a high
school, secondary school, academy, preparatory school, or otherwise) which in the judgment of the State Superintendent of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially the equivalent of those public high schools located in this State. (Section 10 of the Higher Education Student Assistance Act [110 ILCS 947/10])

"Armed Forces" – The United States Army, Air Force, Navy, Marines and Coast Guard.

"Blanket Certificate of Loan Guaranty" – A process that permits an eligible lender to make loans without receiving prior approval from ISAC for individual loans to eligible borrowers enrolled in eligible programs at eligible institutions, as authorized by Section 428(n) of the HEA.

"Chargeback" – Payment of tuition by the community college district of a student's residence to the community college district of a student's attendance. (See 110 ILCS 805/6-2.)

"Citizen" – One who, under the Constitution and laws of the United States, is a native-born or naturalized citizen of the United States of America.

"College Savings Bond" – A State of Illinois general obligation, zero coupon bond, issued pursuant to the Baccalaureate Savings Act as a long-term education savings instrument.

"Co-maker" – One of the two individuals who are joint borrowers either on a Federal PLUS Loan that was certified prior to January 1, 1995 or on any Federal Consolidation loan and who are equally liable for repayment of the loan. (See 34 CFR 682.200.)

"Commission" – The ten member Illinois Student Assistance Commission created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15].

"Compound Accreted Value" – An amount equal to the original amount plus an investment return accrued to the date of determination at a semiannual compounding rate which is necessary to produce the yield at maturity indicated on the Official Statement that was issued when the college savings bonds were sold. The "Compound Accreted Value at Maturity" will be equal to $5000 or an integral multiple thereof.
"Concurrent Registration" – The simultaneous enrollment at two or more institutions.

"Consolidation" – A federal program under which a borrower may receive a single new loan that refinances one or more outstanding qualified education loans under new terms and conditions, as authorized by Section 428C of the HEA.

"Contractual Agreement" – The written agreement between an eligible institution and a school or organization that is not eligible for participation in ISAC-administered programs whereby the non-eligible institution provides part of the education program of students enrolled at the eligible institution, as codified in Section 2700.80. A contractual agreement differs from a consortium agreement, which is an agreement among two or more eligible institutions only.

"Correctional Officer" – An employee of the Illinois Department of Corrections (DOC) who is assigned to a security position with the Department, and who has responsibility for inmates of any correctional institution under the jurisdiction of the Department.

"Correspondence Course" – A home study course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution, as defined at 34 CFR 600.2.

"Co-signer" – A person who is secondarily liable for the repayment of an Alternative Loan.

"Cost of Attendance" – For the purposes of ISAC's rules, this term is defined at Section 472 of the Higher Education Act of 1965, as amended (20 USC 108711).

"Cumulative Grade Point Average" – The average grade earned throughout a student's applicable secondary or postsecondary educational program. The calculation shall be consistent with the institution's established policy or practice and shall be the same as that completed for admission, placement or other similar purposes.

"Default Status" – The failure of a borrower to make an installment payment when due or to meet other terms of the promissory note as defined at 34 CFR 682.200.
"Delinquency" – For the purposes of ISAC's rules, this term is defined at 34 CFR 682.411(b).

"Dependent Student" – A scholarship, loan, tuition waiver or grant applicant or recipient who is not classified as an independent student.

"Disbursement" – In relation to scholarship and grant programs, a disbursement occurs on the payment voucher date. In relation to the Federal Family Education Loan Program, disbursement is the process of transferring loan proceeds as defined at 34 CFR 682.200.

"Distance Education" – A learning and teaching mode characterized by the separation of place and time between instructor and student, which includes programs and courses offered by correspondence and telecommunications.

"ED" – The acronym for the United States Department of Education.

"Educational Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that enrolls students who participate in ISAC programs.

"Educational Lender" – An institution that meets the lender eligibility criteria outlined in 23 Ill. Adm. Code 2720.25 for FFELP Loans and 2721.40 for alternative loans.

"EFT" – The acronym for electronic funds transfer.

"Eligible Noncitizen" – A noncitizen who is eligible for federal student assistance pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See 20 USC 1091.)

"Endorser" – A person who is secondarily liable for the repayment of a Federal PLUS Loan obligation.

"Enrolled" – The status of a student who has completed the institution's registration requirements and is attending classes.

"Executive Director" – The chief executive officer of ISAC.
"Expected Family Contribution" – The amount the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education. Expected Family Contribution is defined at Section 474 of the Higher Education Act (HEA) of 1965, as amended. (See 20 USC 1087nn.)

"FAFSA" – The acronym for the Free Application for Federal Student Aid.

"FAFSA Receipt Date" – The date reported by ED's processor as the date upon which it receives an applicant's initial FAFSA for an academic year. For paper FAFSA's sent through the U.S. Postal Service, this is the date of physical receipt at the processor, not the postmark date.

"Federal Regulations" – Refers to regulations promulgated by ED and codified at 34 CFR 600 et seq.


"Fire Officer" – For the purposes of ISAC's rules, this term means a firefighter who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Foreign Missionary" – An individual who is assigned duty outside of the United States by an organization that engages in educational, philanthropic, humanitarian or altruistic works. The missionary organization must be exempt from the payment of federal taxes and must have been engaged in placing foreign missionaries for at least five years. Examples of such missionary organizations include, but are not limited to, the following: Peace Corps, Evangelical Alliance Mission, etc.

"Full-time Student" – In relation to scholarship and grant programs, an individual enrolled for twelve or more credit hours, for either a semester or quarter term. In relation to the Federal Family Educational Loan Program, full-time student is defined at 34 CFR 668.234 CFR 682.200.

"Gift Assistance" – Student assistance funds in the form of a scholarship, grant or tuition waiver, including, but not limited to, federal, State, institutional and private aid.
"Good Moral Character" – An applicant is of good moral character if the applicant will benefit from postsecondary instruction and is allowed to enroll at an approved postsecondary institution.

"Graduating Class" – The students who will complete the high school's program of instruction and graduate within an academic year.

"Guaranteed Loan" – Loan assistance through the Federal Family Education Loan Program (FFELP) that includes the subsidized and unsubsidized Federal Stafford Loan, the Federal PLUS Loan, the Federal Supplemental Loans for Students (SLS), and the Federal Consolidation Loan programs.

"HEA" – The acronym for the Higher Education Act of 1965, as amended, and codified at 20 USC 1070 et seq.

"Half-time Student" – In relation to scholarship and grant programs, an individual enrolled for six or more credit hours (but fewer than twelve credit hours) for either a semester or quarter term. In relation to the Federal Family Education Loan Program, half-time student is defined at 34 CFR 668.234 CFR 682.200.

"Holder" – An organization authorized by ED and ISAC to purchase or retain possession of guaranteed loans. These organizations operate as commercial and educational lenders or secondary markets and may purchase ISAC-guaranteed loans from approved lenders.

"IBHE" – The acronym for the Illinois Board of Higher Education, the administrative agency created by the Board of Higher Education Act [110 ILCS 947/205].

"IDAPP" – The acronym for ISAC's Illinois Designated Account Purchase Program as authorized by the Education Loan Purchase Program Law [110 ILCS 947/125 through 170].

"Independent Student" – For the purposes of ISAC's rules, an independent student is defined by Section 480 of the Higher Education Act of 1965, as amended by P.L. 110-84P.L. 109-171. (See 20 USC 1087vv.)

"Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that enrolls students who participate in ISAC
"Institution of Higher Learning" – An educational organization whose main campus is physically located in Illinois that:

- provides at least a two-year program of collegiate study in liberal arts or sciences, or associate degree or both, directly applicable toward the attainment of a baccalaureate degree, or, a program in health education directly applicable toward the attainment of a certificate, diploma, or an associate degree; and

- is operated:
  - by the State, or
  - publicly or privately, not for profit, or
  - for profit, provided it:

  offers degree programs that have been approved by the IBHE for a minimum of three years under the Academic Degree Act, and

  enrolls a majority of its students in these degree programs, and

  maintains accredited status with the Higher Learning Commission of the North Central Association of Colleges and Schools.

For otherwise eligible educational organizations that provide academic programs for incarcerated students, the term "institution of higher learning" shall specifically exclude academic programs for incarcerated students (Section 10 of the Higher Education Student Assistance Act). For eligible institutions with campuses in multiple states, the term "institution of higher learning" shall include only those campuses located in Illinois.

"Institution of Record" – The postsecondary institution at which a student is enrolled and seeking a degree or certificate. This institution assumes primary responsibility for certification of eligibility for ISAC-administered programs and
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for requesting payment from ISAC.

"ISAC" – The acronym for the Illinois Student Assistance Commission, the administrative agency created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15] to administer student assistance programs.

"ISBE" – The acronym for the Illinois State Board of Education, the administrative agency created by the School Code [105 ILCS 5].

"Lender" – An organization authorized by ISAC to make educational loans to students.

"Mandatory Fees" – The charges assessed by an institution to each and every full-time student for each term. Application, graduation, laboratory, breakage, add/drop fees, and program administrative fees for out-of-state or foreign study are specifically excluded. For the purposes of ISAC's rules, tuition is not a mandatory fee.

"MAP" – The acronym for the Monetary Award Program administered by ISAC, as authorized by 110 ILCS 947/35 and codified at 23 Ill. Adm. Code 2735.

"Master Check" – A single check representing the loan proceeds for more than one borrower.

"Minority Student" – A student who is either Black (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); Asian American (a person with origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, including Pakistan, and the Pacific Islands, including, among others, Hawaii, Melanesia, Micronesia and Polynesia); or Native American (a person who is a member of a federally or state recognized Indian tribe, or whose parents or grandparents have such membership) and to include the native people of Alaska (Section 50(a) of the Higher Education Student Assistance Act).

"Parent" – For the purposes of ISAC's rules, this term is defined at 34 CFR 668.2.

"Pell Grant" – A federal gift assistance program administered by ED in accordance with Section 411 of the Higher Education Act of 1965, as amended. (See 20 USC 1070a et seq.)
"PLUS" – The federal program that provides loans to graduate students or parents of certain undergraduate students, as authorized by Section 428B of the Higher Education Act of 1965, as amended (20 USC 1078-2) and Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175].

"Police Officer" – For the purposes of ISAC's rules, this term means a law enforcement officer who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Qualified Applicant" – An individual who meets the eligibility requirements of the gift assistance program for which she/he is applying.

"Regular School Year" – An eight to nine month period of time that includes two semester terms or three quarter terms. The regular school year excludes summer terms. Terms that begin after April 15 and end before September 16 are considered summer terms.

"Remedial Courses" – The course work that prepares a student for study at the postsecondary level and is necessary for the student to pursue the eligible postsecondary program.

"Resident of Illinois" –

A dependent student is a resident of Illinois if the parent of the dependent-applicant, who is required by the instructions to complete the Free Application for Federal Student Aid (FAFSA), physically resides within the State of Illinois and Illinois is his or her true, fixed and permanent home.

An independent student is a resident of Illinois if the applicant physically resides within the State of Illinois (at the time of application), and has so resided for a period of 12 continuous, full months immediately prior to the start of the academic year for which assistance is requested and Illinois is his or her true, fixed and permanent home.

When an applicant does not qualify as a resident of Illinois under the preceding two paragraphs and the applicant is a member of the U.S. Armed Forces or a foreign missionary, or is the dependent or the spouse of
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an individual who is a member of the U.S. Armed Forces or a foreign missionary, then the applicant's residency shall be determined in accordance with the following four paragraphs.

An applicant who is a member of the U.S. Armed Forces will be a resident of Illinois if the applicant physically resided in Illinois immediately prior to entering the U.S. Armed Forces, returned (or plans to return) to Illinois within six months after and including the date of separation and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such enlistment.

An applicant who is a foreign missionary will be a resident of Illinois if the applicant physically resided in Illinois for six continuous months immediately prior to entering missionary service, returned (or plans to return) to Illinois within six months after the conclusion of missionary service, and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such missionary service.

The dependent-applicant shall be a resident of Illinois notwithstanding the parents' temporary physical absence from Illinois provided the parents would be a resident of Illinois under the preceding two paragraphs.

The spouse-applicant shall be a resident of Illinois immediately upon physically occupying a dwelling within the State of Illinois provided the applicant can demonstrate that his/her absence from the State was the result of residing with the spouse during enlistment or missionary service outside of Illinois and that the spouse-applicant's domicile continues to be the State of Illinois.

"Rules" – The rules of ISAC codified at 23 Ill. Adm. Code: Subtitle A, Chapter XIX.

"Satisfactory Academic Progress" – An institutional policy that establishes minimum standards of academic performance. For purposes of ISAC-administered programs, the standards must be at least as stringent as those required by ED pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See 20 USC 1091.)

"Service Academy" – The U.S. Air Force Academy, the U.S. Coast Guard
Academy, the U.S. Military Academy or the U.S. Naval Academy (Section 30(a) of the Higher Education Student Assistance Act).

"SLS" – The acronym for the federal Supplemental Loans for Students Program, as authorized by Section 428A of the Higher Education Act, as amended (20 USC 1078-1). No SLS loans have been made for periods of enrollment beginning on or after July 1, 1994.

"Special Education" – A postsecondary educational program designed to teach persons how to meet the needs of all children designated as physically disabled, with specific learning disabilities, or requiring extraordinary special education services and facilities. (See 105 ILCS 5/14-1.02 and 7.20a.) These programs prepare persons for meeting the needs of children who exhibit disabilities or exceptional characteristics ranging from very mild to very severe. (See 23 Ill. Adm. Code 226, Special Education.) Such a program prepares a student to teach physically disabled children or children with learning disabilities. (See 105 ILCS 5/14-1.02 and 1.03a.)

"Stafford" – The federal subsidized and unsubsidized loan programs as authorized by Sections 427, 428 and 428H of the Higher Education Act, as amended (20 USC 1078).

"Student Beneficiary" – An individual designated as the recipient of a College Savings Bond Bonus Incentive Grant.

"Teacher Education Program" – An undergraduate postsecondary course of study, upon completion, qualifies a student to be certified as a pre-school, elementary or secondary teacher by a state board of education or its equivalent (including the Illinois State Board of Education). For a student who has completed less than four semesters/six quarters of postsecondary study, this includes a postsecondary course of study which leads to a teacher education program.

"Teacher Shortage Discipline" – An academic discipline in which a shortage of teachers exists in Illinois, as designated by the Illinois State Board of Education.

"Telecommunications Course" – A course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable microwave, satellite, audio conferencing, computer conferencing, and video cassettes or disks, as defined at 34 CFR 600.2.
"Term" – A unit of time for student attendance, including, but not limited to, a quarter or semester.

"Tuition" – The charge for instruction assessed by an institution.

"Verification" – Procedures implemented by postsecondary institutions to verify the eligibility of applicants. The procedures are established by 34 CFR 668 et seq. and by ISAC’s rules.

(Source: Amended at 32 Ill. Reg. 10269, effective July 1, 2008)

Section 2700.30 General Institutional Eligibility Requirements

a) ISAC Program Participation Agreement

1) All institutions shall execute an ISAC Program Participation Agreement in order to participate in ISAC gift assistance programs.

2) The ISAC Program Participation Agreement shall identify the ISAC programs under which the institution's students may receive benefits.

3) The ISAC Program Participation Agreement shall include provisions requiring institutions to comply with statutes, federal regulations and State rules.

4) The ISAC Program Participation Agreement may be modified or terminated in accordance with 23 Ill. Adm. Code 2790, Limitation, Suspension or Termination Proceedings.

b) With respect to ISAC student assistance programs, institutions shall develop and maintain procedures to verify the consistency and accuracy of information received from their enrolled recipients.

c) Institutions shall be subject to possible limitation, suspension or termination of eligibility for failure to comply with statutes, regulations, rules or procedures and for failure to maintain the standards required by this Section for initial participation. (See 23 Ill. Adm. Code 2790.)

d) Postsecondary institutions that which participate in gift assistance programs shall
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annually submit to ISAC a copy of their tuition refund policy. Such submissions shall not be considered ISAC approval of such policies.

e) Postsecondary institutions that participate in gift assistance programs shall annually report their tuition and fee charges, as well as initial MAP advance payment requests, to ISAC on or before June 1 preceding each academic year.

1) Failure to report any cost changes by the deadline will cause the prior year's charges to be used as part of the calculation process for gift assistance benefits. Failure to report the assessment of a fee charge by the deadline will result in that fee charge being ineligible for payment under ISAC gift assistance programs.

2) The report shall match specific fee charges with the gift assistance programs that may finance the fee. Such categorizations by the institution shall not be considered ISAC approval.

3) The Illinois National Guard Grant and the Illinois Veteran Grant (IVG) Programs may finance only a portion of certain fee charges. (See 23 Ill. Adm. Code 2730.30(a) and 2733.30(e).)

A) Example: One fee finances both tuition and textbook expenses. Only the portion of the fee attributable to tuition expenses may be financed with program benefits.

B) Institutions with such a fee shall certify what percentage of the fee is eligible to be financed with program benefits. Certification shall be performed by the institution's chief fiscal officer.

f) Institutions shall submit additional reports, data and information to ISAC as may be requested. These inquiries include, but are not limited to, surveys, enrollment confirmations and evaluation instruments.

g) Additional institutional eligibility requirements are contained in subsequent Parts of ISAC's rules.

h) Postsecondary institutions may apply to participate in ISAC-guaranteed loan programs in accordance with 23 Ill. Adm. Code 2720.

i) Postsecondary institutions may apply to participate in ISAC gift assistance
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programs in accordance with this subsection.

1) The Commission approves participation in ISAC gift assistance programs for an institution rather than for specific academic programs within an institution.

2) Prior to applying for participation in ISAC gift assistance programs, the institutional applicant must have authority to operate a postsecondary institution in Illinois. (See 23 Ill. Adm. Code 1030.)

3) Institutional applicants that are fully accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools and have degree-granting authority may be approved to participate in ISAC gift assistance programs provided the institution meets and maintains the requirements of subsections (i)(4)(C) and (D).

4) Public or private not for profit institutional applicants that do not meet the requirements of subsection (i)(3) may be approved to participate in ISAC gift assistance programs if the institution has:

   A) obtained candidate status for the Higher Learning Commission of the North Central Association of Colleges and Schools accreditation.

   B) applied for and is seeking degree-granting authority.

   C) obtained at least three letters indicating the transferability of academic credit from the applicant institution to other institutions. The letters must be from institutions that are approved to participate in the Monetary Award Program (MAP) and are accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.

   D) an adequate number of qualified persons to administer their responsibilities under ISAC's rules. In determining whether an institution employs an adequate number of qualified persons, the Commission considers the number of students aided, the number of programs in which the institution participates, the number of
APPLICATIONS EVALUATED, THE AMOUNT OF FUNDS ADMINISTERED, AND THE FINANCIAL AID DELIVERY SYSTEM USED BY THE INSTITUTION.

5) Institutional applicants must also supply ISAC with audited financial statements, prepared by an independent third party in accordance with generally accepted accounting principles, to establish financial responsibility. (See, e.g., 34 CFR 668.15.)

6) Once approved to participate in ISAC gift assistance programs by the Commission, an institution shall receive provisional eligibility for a minimum of five academic years. An institution with provisional eligibility must petition the Commission for full eligibility. Full eligibility will be granted if the institution meets the requirements of subsection (i)(3) above and if there are no outstanding audit exceptions.

j) As a condition of eligibility for participation in ISAC student assistance programs, postsecondary institutions shall have a valid Program Participation Agreement with ED (see Section 487 of the Higher Education Act of 1965, as amended (20 USC 1094)) and shall report their Office of Postsecondary Education Identification (OPE-ID) number to ISAC.

k) In order to begin and to continue participation in ISAC-administered student assistance programs, institutions must also demonstrate administrative capability and financial responsibility, as defined by federal regulations. (See, e.g., 34 CFR 668.15 & 668.16.) An institution's failure to meet and maintain those standards can lead to limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

l) Institutions that have been assigned multiple main OPE-ID numbers will be considered separate entities by ISAC. Different campus codes associated with the same main OPE-ID number will not be considered separate entities.

m) An institution shall notify ISAC of its Federal Employer Identification Number (FEIN) in order to receive payment pursuant to any ISAC-administered program.

n) When an approved institution has a change of ownership resulting in a change of control, a change of location, or a change of name as defined by federal regulations, the institution's Program Participation Agreement with ED may be terminated. After an institution has undergone a change of status affecting its participation in any Title IV federal student financial aid programs, the institution
may have its eligibility with ISAC reinstated by the execution of a new Program Participation Agreement with ED (see, e.g., 34 CFR 600.30 et seq.) and by the submission and approval of a new application for participation with ISAC.

(Source: Amended at 32 Ill. Reg. 10269, effective July 1, 2008)

Section 2700.50 Determining Applicant Eligibility

a) The evaluation of applicant eligibility is the responsibility of both the institution and ISAC.

b) No applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate state and federal agencies in the process of reviewing application data. Such agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Citizenship and Immigration Services Bureau (USCIS), Illinois Department of Healthcare and Family Services, Illinois Department of Revenue, and Illinois Department of Children and Family Services.

c) When requesting payment for ISAC gift assistance programs, the postsecondary institution must certify that the applicants are eligible for the assistance. If an institution subsequently determines a student is no longer eligible for all or part of the awarded assistance, the institution must inform ISAC and submit the appropriate refund within 60 days after the receipt of payment or the end of a term, whichever is later.

d) When requesting payment of benefits, institutions shall certify (in accordance with ISAC’s rules or federal regulations) whether an applicant is eligible based upon enrollment in a particular academic program.

e) If an institution erroneously certifies an applicant to be eligible for ISAC gift assistance programs, ISAC will recover the erroneous payment from the institution. Any student who obtained ISAC-administered funds by submitting inaccurate information to an institution must tender restitution to the institution to be eligible for ISAC assistance at that institution.

f) If an applicant is selected for verification in conjunction with federal student assistance, that applicant shall also be verified for ISAC-administered programs. A selected applicant must be verified for ISAC programs even if the applicant is
Because ED verification procedures do not include procedures for verifying a student as a resident of Illinois, the following provisions shall be followed by the institution.

1) Residency status shall be verified if the institution has any information that indicates the applicant may not be a resident of Illinois.

2) Residency status shall be verified for each applicant who is selected for verification and has changed dependency status to become an independent student.

3) Residency verification shall not be required for an applicant who received payment of a MAP award during the previous academic year.

4) Residency verification shall not be required for an applicant who was enrolled in an ISAC-approved MAP institution or an ISAC-approved Illinois high school (see Section 2700.30) for the preceding consecutive 12 months prior to the start of the academic year for which assistance is requested.

5) Data from one or more of the documents listed below may provide proof that an applicant (or parent) is an Illinois resident, as defined in Section 2700.20. For an independent student applicant, the dates recorded on the documents must indicate the applicant has resided in Illinois for the relevant 12 continuous, full months.

A) A valid State or federal income tax return

B) Illinois high school or college transcript

C) Illinois driver's license

D) Utility or rent bills in the applicant's (or parent's) name

E) Illinois auto registration card

F) Residential lease in the applicant's (or parent's) name
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G) Wage and tax statements (IRS Form W-2)

H) Statement of benefits history from the Illinois Department of Healthcare and Family Services

I) State of Illinois identification card issued by the Secretary of State

J) Statement of benefits from the Illinois Department of Employment Security

K) Statement of benefits from the Social Security Administration

L) Illinois voter's registration card

M) Property tax bill.

N) IRS Form 1099-Miscellaneous Income Statements

6) If an applicant is a resident of Illinois, but the institution cannot document this fact, the applicant or the institution may verify residency through ISAC's appeal process. (See Section 2700.70.)

h) Institutions may request first term payment even though verification is not yet complete. If, after verification, an ISAC payment adjustment is appropriate, institutions must submit the appropriate refund. If verification is not completed within 60 days after the conclusion of the regular school year, the institution shall return the first term payment to ISAC. For other than the first term of eligibility in an academic year, the verification process must be completed before the institution may request payment.

i) When an institution adjusts an applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 USC 1087kk et seq.), the institution shall retain documentation that demonstrates the appropriateness of the adjustment.

(Source: Amended at 32 Ill. Reg. 10269, effective July 1, 2008)
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1) Heading of the Part: Federal Family Education Loan Program (FFELP)

2) Code Citation: 23 Ill. Adm. Code 2720

3) Section Numbers: Adopted Action:
   2720.25    Amendment
   2720.30    Amendment
   2730.41    Amendment
   2730.50    Amendment
   2730.70    Amendment
   2720.80    Amendment

4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) Effective Date of Amendments: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: February 8, 2008; 32 Ill. Reg. 1815

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: The changes made were nonsubstantive in nature.

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 rulemakings currently in effect? No

14) Are there any amendments pending on this Part? No
15) **Summary and purpose of Rulemaking:** Numerous citations referencing Federal Regulations and the Higher Education Reconciliation Act of 2005 (HERA) have been updated throughout this Part. Section 2720.50(e)(2) has been amended to reflect current federal regulation changes to the late disbursement provision. In addition, "guarantee fee" and "student guarantee fee" have been changed to "federal default fee" in Sections 2720.70(e) and (g) to reflect current federal regulation changes.

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

   Lynn Hynes  
   Agency Rules Coordinator  
   Illinois Student Assistance Commission  
   1755 Lake Cook Road  
   Deerfield, IL  60015  

   PH: 847/948-8500 ext. 3706  
   FAX: 847/948-5033  
   email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720
FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)

SUBPART A: FEDERAL LOAN PROGRAMS: THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section
2720.5 Summary and Purpose
2720.6 Definitions (Repealed)
2720.10 Eligibility for ISAC Loan Guarantees
2720.20 Lender Eligibility
2720.25 Educational Lender Eligibility
2720.30 Institutional Eligibility
2720.35 Holder Eligibility
2720.40 Procedures for Obtaining a Guaranteed Loan
2720.41 One-Lender Requirement
2720.42 One-Holder Requirement
2720.50 Procedures for Disbursement, Delivery and Repayment
2720.55 Federal Consolidation Loan Program
2720.60 Default Aversion Assistance
2720.70 Reimbursement Procedures
2720.80 Federal Default Fee
2720.90 Guarantee Transfers

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section
2720.105 Summary and Purpose
2720.120 IDAPP Eligible Loans
2720.130 IDAPP Eligible Lenders

SUBPART C: ISAC ORIGINATED LOANS

Section
2720.200 ISAC Originated Consolidation Loans
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2720.210 Illinois Opportunity Loan Program (IOP)
2720.220 Federal Family Education Loan Program (FFELP) Loans

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SUBPART A: FEDERAL LOAN PROGRAMS:
THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM,
FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM,
AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section 2720.25 Educational Lender Eligibility

a) Educational lenders must meet the eligibility requirements of institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, educational lenders must comply with all federal regulations related to the origination, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601 and 682.602.)

b) Institutions may be approved as lenders if approved by ED and if the following requirements are met.

1) The specific materials to be provided by an institution in seeking approval as an eligible lender are:

   A) An audited, certified and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;

   B) An institutional catalog;

   C) A statement of the institution's default/delinquency experience as a lender in the Federal Perkins Loan Program, FFELP, or Federal Insured Student Loan (FISL) Program (20 USCUSCA 1071 et seq.);
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D) A statement explaining the source of the institution's lending capital; and

E) Any other materials that might be requested by ISAC to show the institution's potential qualifications as a lender.

2) In addition to the above materials, a school which is organized on a for-profit basis will be requested to submit a:

A) copy of its student contract;

B) description of its admission/sales staff and their functions;

C) statement of the institution's drop-out/completion rates;

D) sample of the institution's advertising materials; and

E) description or copies of student complaints filed with the institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the institution's accrediting association.

3) The applications for eligible educational lender status in the programs and the supporting documentation shall be reviewed by ISAC staff. The applicant institution shall be informed of its annual lending limit, as well as any additions to the lender agreement that ISAC determines are prudent in individual instances to protect the default record of ISAC. If the institution is approved as an educational lender, it will execute an Educational Lender Agreement which will include:

A) the institution's agreement to comply with statutes, federal regulations and State rules;

B) a statement of agreement including, or referring to, the list of required activities of educational lenders as outlined in 34 CFR 682.601 and 682.602;
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C) a statement of agreement including, or referring to, the federal regulations with respect to loan disbursements and refund application;

D) a statement of agreement including, or referring to, the federal regulations definition of "due diligence"; and

E) an expiration date of such lending contract that shall not be later than the end of the first full fiscal year following the negotiation of the contract, at which time its renewal shall be considered by ISAC.

c) A loan guarantee shall be canceled if the educational lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the educational lender for the defaulted loan.

d) ISAC conducts compliance reviews to determine if approved educational lenders are complying with federal regulations, statutes and rules.

e) Educational lenders that do not maintain the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

Section 2720.30 Institutional Eligibility

a) Institutional eligibility requirements are specified in federal regulations. Eligible postsecondary institutions include universities, colleges, graduate schools, schools of nursing, business, trade, technical and vocational schools. Correspondence institutions/programs are not eligible.

b) Institutions must have executed a Program Participation Agreement with ED in order to participate in ISAC-guaranteed loan programs. (See 34 CFR 668.14.)

c) An institution may not engage in loan origination activities. This prohibition shall not apply if the institution has an ED-approved Origination Agreement on file with ISAC and the institution has been approved as an educational lender. (See
Section 2720.25 of this Part and 34 CFR 682.601 and 682.602.)

d) Approved institutions shall provide ISAC with the current enrollment status of students whom the institution has certified as eligible borrowers in accordance with federal regulations. (See 34 CFR 682.610(c).)

e) Applicant and approved institutions must demonstrate administrative capability and financial responsibility, as defined by federal regulations, in order to begin and to continue participation in ISAC-guaranteed loan programs. (See, e.g., 34 CFR 668.14, 668.15 and 668.16.)

f) Institutions wishing to participate in ISAC-guaranteed loan programs shall submit an application that shall include, but not be limited to: documentation from the U.S. Department of Education (ED) and the state in which it operates demonstrating authorization to offer educational programs; previous audit and compliance reviews conducted by other guarantors and ED; proof of accreditation; audited financial statements; student catalogs; promotional materials; documentation relating to student withdrawal rates; and other similar information requested by ISAC to show the institution's qualifications for participation. Participation will be decided by an examination of application materials and a determination of compliance with federal laws and regulations and State statutes and rules. Institutions may appeal an administrative decision denying participation or limiting eligibility in accordance with ISAC appeal procedures. (See 23 Ill. Adm. Code 2700.70.) Institutions denied participation shall be eligible to reapply one year from the date of the initial ISAC letter denying eligibility.

g) Institutions not maintaining the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

h) A foreign postsecondary institution, located outside the United States, is eligible to participate in ISAC-guaranteed loan programs provided it produces evidence to ISAC of current eligibility with ED (e.g., Program Participation Agreement, Institutional Eligibility Notice, etc.) or documentation of such eligibility is available directly from ED. (See 34 CFR 668.15(h).)

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)
Section 2720.41 One-Lender Requirement

a) All of a borrower's outstanding ISAC-guaranteed loans must be made by the same lender, subject to the following conditions:

1) ISAC will issue a loan guarantee to a commercial lender provided that lender agrees to make all types of Federal Family Education Loan Program (FFELP) Loans to the borrower that the borrower requests and is eligible to receive, and:

   A) the loan is the borrower's first ISAC-guaranteed loan;
   B) the loan is a subsequent loan and the commercial lender has issued all of the borrower's previous ISAC-guaranteed loans; or
   C) the loan is a subsequent loan and the commercial lender holds or has purchased all outstanding ISAC-guaranteed loans for that borrower from previous commercial lenders, in accordance with Section 2720.42 of this Part.

2) ISAC will issue a loan guarantee to an educational lender provided that:

   A) the lender agrees to make all types of FFELP Loans to the borrower that the borrower requests and is eligible to receive;
   B) the lender is an educational institution at which the borrower is currently enrolled; and
   C) the borrower has previously made a good faith effort to obtain a loan from a commercial lender pursuant to federal regulations. (See 34 CFR 682.602.) (See 34 CFR 682.601.)

b) The requirements of this Section shall not apply if:

1) the outstanding loans are held by a lender that has been declared insolvent by a regulatory agency, has terminated its agreement with ISAC or has withdrawn from participation in FFELP;
2) ISAC is informed by the borrower, the institution or its agent that the
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borrower has provided authorization to have subsequent loans issued by a different lender;

3) the borrower is requesting a subsequent loan and the lender has made a previous ISAC-guaranteed loan to that borrower for that loan program with a guarantee date prior to July 1, 1993; or

4) the borrower's outstanding loans were made in accordance with Section 2720.40(c) of this Part, by a lender-of-last-resort.

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

Section 2720.50 Procedures for Disbursement, Delivery and Repayment

a) Disbursement, delivery and repayment procedures are specified in federal regulations. (See 34 CFR 682.206, 34 CFR 682.207, 34 CFR 682.209, and 34 CFR 682.604.)

b) Prior to disbursement, the borrower shall execute a common ED-approved promissory note for the principal and interest on the loan. The lender shall retain an original or true and exact copy of the promissory note. (See 34 CFR 682.414.)

c) The lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower's behalf. The lender shall not collect or attempt to collect from the borrower or ISAC any portion of the interest on the loan which is payable by ED.

d) Except for loans pursuant to Section 2720.55, or loans made under a Blanket Certificate of Loan Guaranty agreement, the lender shall not disburse the proceeds of any loan on the borrower's behalf unless and until the lender shall have received from ISAC evidence of a guarantee. The lender shall inform ISAC of all disbursement dates.

e) Federal Stafford and Federal PLUS Loan proceeds shall be transmitted directly to the institution.

1) Federal Stafford Loan checks shall be payable to the student borrower unless the institution requires all Stafford loan checks to be co-payable to the borrower and the institution. Federal PLUS Loan checks shall be co-payable to the institution and the borrower. Federal Stafford or Federal
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PLUS Loan funds disbursed either via EFT or by Master Check to the institution shall include information identifying the names, Social Security Numbers and the loan amounts of the borrowers who are receiving a portion of the disbursement, and, in the case of a Parent PLUS Loan, the names and the Social Security Numbers of the students on whose behalf the parents are borrowing.

2) Loan proceeds must be disbursed to the institution and delivered to the borrower no later than 180 days after the end of the loan period or 120 days after the date on which the student ceased to be enrolled at least half-time, whichever is earlier. In cases where the student is not at fault, a late disbursement may be made beyond the 120 day period if the institution makes such a request and it is approved by ED. If the loan proceeds are not delivered pursuant to this subsection, the school must request that the loan be canceled and must return any loan proceeds. (See 34 CFR 668.164(g).)

3) If the student has withdrawn from enrollment and federal regulations require the institution to submit a refund to the lender, either electronically or in the form of a check payable to the lender on behalf of the borrower, the institution shall provide simultaneous written notice to the borrower of the refund.

A) If the institution fails to issue a timely refund, as defined by federal regulations (see 34 CFR 682.607(c) and 668.22(j)), the institution shall pay penalty interest.

B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.

C) The penalty interest shall be paid to the lender or subsequent holder.

f) The borrower shall have the right to prepay without penalty the whole or any part of a loan guaranteed hereunder.

g) The lender or holder shall notify the borrower of the repayment options available, as specified in 34 CFR 682.209. The lender or holder shall send a repayment
schedule to a FFELP borrower no less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower.

h) The lender or holder shall notify ISAC of payment in full or prepayment in full by the borrower.

i) In accordance with federal regulations, the lender or holder may extend the maturity date of any note.

j) Lenders or holders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by Section 428(c)(3)(C) of the Higher Education Act of 1965, as amended, and by federal regulations. (See 34 CFR 682.211.)

k) Borrowers are entitled to deferments, which extend the maturity date of any note, under conditions established by federal regulations. (See 34 CFR 682.210.)

l) ISAC provides lenders or holders with the ED-approved common forms necessary for servicing their guaranteed loan portfolio (e.g., deferment forms, mandatory forbearance forms).

m) No note shall be sold or transferred by the lender except to an ISAC-approved lender, an ISAC-approved holder, or ISAC.

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

Section 2720.70 Reimbursement Procedures

a) The lender or holder shall request reimbursement from ISAC within 60 days from the date the lender or holder receives a completed request for loan cancellation or discharge due to death, total and permanent disability, attendance at a school that closes, false certification by a school of a borrower's eligibility for a loan, unpaid refunds, or child care provider or teacher loan forgiveness, in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.215, 682.402 and 682.409.)

b) Requests for default reimbursement must be submitted to ISAC within the time frames specified in, and the lender or holder shall be reimbursed in accordance with, federal regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS Loan, the borrower, co-maker and
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endorser must meet the default criteria contained in federal regulations.

c) The lender or holder must request ISAC reimbursement for a bankruptcy claim in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.402(f).) The request for reimbursement must be submitted within 30 days after the lender's or holder's receipt of notice that collection on the debt is stayed, or 15 days upon notice of an adversary proceeding for undue hardship. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS Loan, the borrower, co-maker and endorser must meet the bankruptcy criteria contained in federal regulations.

d) Prior to reimbursement, the lender or holder must certify compliance with federal due diligence requirements and subsection (h) of this Section.

e) Prior to reimbursement, the lender or holder must have remitted the federal default fee guaranteed fee established by Section 2720.80.

f) The lender or holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been lost or erroneously stamped "Paid in Full," the lender or holder shall execute a Hold Harmless Agreement with ISAC.

g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in federal regulations (see 34 CFR 682.202(f) and (g)), including the federal default fee guaranteed fee, and the federal loan origination fee, shall be contracted for or received by the lender.

h) The lender or holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by federal regulations. (See, e.g., 34 CFR 682.402, 682.411 and 682.412.)

i) ISAC shall collect the outstanding amount on the reimbursed guaranteed loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of federal regulations, including, but not limited to, offsets of federal income tax refunds and other payments made by the federal government to the borrower. (See
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34 CFR 682.410(b)(6).

j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.

1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.

2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See 23 Ill. Adm. Code 2700.40(a)(1).)

3) ISAC shall notify the Office of the Comptroller that a borrower is eligible to be offset. ISAC may provide additional notice of subsequent offsets for the same debt. The Comptroller shall notify the borrower that the Comptroller is required to hold all eligible payments until the loan is paid in full. Should the borrower dispute the debt, a protest must be filed with the Office of the Comptroller within 30 days after and including the date of the notice. If the requested relief is granted, the funds offset shall be returned to the borrower.

4) Funds eligible to be offset include, but are not limited to, State income tax refunds and the wages of State employees.

k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to a credit bureau or assesses collection costs against the borrower, in accordance with federal regulations (34 CFR 682.410(b)(5)(ii)(C)).

l) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 488A of the Higher Education Act, as amended.

m) ISAC requires the lender or holder to submit a request for an increase in claim payment within 90 days after receiving the claim payment. ISAC will provide the lender or holder with a determination on the increase in claim payment within 90 days after receiving the request and supporting documentation.

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)
Section 2720.80  Federal Default Fee  

a) ISAC must charge a federal default fee on each loan guaranteed on or after July 1, 2006. The fee must be collected from the borrower or from any non-federal source. If assessed to the borrower, the fee must be deducted proportionally from each disbursement of the loan. The fee must be remitted to ISAC by the lender no less frequently than monthly.

b) The amount of the federal default fee collected on each loan shall be equal to one percent of the principal amount of the loan (see 20 USC 1071 et seq.).

c) Refunds of any federal default fees assessed the borrower shall be made in accordance with federal regulations. (See 34 CFR 682.401(b)(10)(v) & (vi).)

d) The federal default fees shall be deposited in the Federal Student Loan Reserve Fund. In accordance with federal regulations, a guaranty agency shall not use such proceeds for incentive payments to lenders and shall only use these proceeds for costs incurred as outlined in 34 CFR 682.419(c).

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)
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1) Heading of the Part: Illinois National Guard (ING) Grant Program

2) Code Citation: 23 Ill. Adm. Code 2730

3) Section Numbers: Adopted Action:
   2730.30 Amendment
   2730.40 Amendment

4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]

5) Effective Date of Amendments: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: February 8, 2008; 32 Ill. Reg. 1830

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: The only changes made were nonsubstantive in nature.

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 rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of Rulemaking: In Section 2730.30(a) and (b) the list of eligible and non-eligible fees is being updated to more accurately reflect the fees specified in the statute. Language has been added to Section 2730.30(j) permitting schools to require students to provide proof of residency for the purposes of determining in-district or out-of-district payment. Section 2730.40(b) has been modified from "shall certify" to "is
certifying" to clarify the action that is occurring in Section 2730.20(d), Applicant Eligibility.

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

   Lynn Hynes  
   Agency Rules Coordinator  
   Illinois Student Assistance Commission  
   1755 Lake Cook Road  
   Deerfield, IL  60015  

   PH:  847/948-8500 ext. 3706  
   FAX:  847/948-5033  
   email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section

2730.10 Summary and Purpose
2730.20 Applicant Eligibility
2730.30 Program Procedures
2730.40 Institutional Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].


Section 2730.30 Program Procedures

a) The recipient is exempt from paying the following:

1) tuition;

2) registration fees;
b) The recipient is responsible for payment of other fees, including the following:

1) book rental fees;
2) laboratory and supply fees;
3) air flight fees;
4) hospital and health insurance fees;
5) room and board;
6) parking fees;
7) student union fees;
8) athletic fees; and
9) proficiency or placement exam fees and other similar fees; and
10) service fees.

c) Benefits are applicable to both undergraduate and graduate enrollment. There is no minimum credit-hour enrollment requirement. Benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public senior universities and at any Illinois public community college.

e) Within the constraints of appropriation levels, two semester or three quarter term payments and one summer term payment are made directly to the institution after
it officially certifies to ISAC that the applicant has registered and is attending classes. No seminars or other special terms are covered under the grant. Summer term is considered the final term of the academic and fiscal year.

f) Benefits are limited to the equivalent of four academic years of full-time enrollment.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to "eligibility units" according to the following chart:

<table>
<thead>
<tr>
<th>Number of Hours</th>
<th>Semester School</th>
<th>School Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 or more hours</td>
<td>12 units</td>
<td>8 units</td>
</tr>
<tr>
<td>9 - 11.99 hours</td>
<td>9 units</td>
<td>6 units</td>
</tr>
<tr>
<td>6 - 8.99 hours</td>
<td>6 units</td>
<td>4 units</td>
</tr>
<tr>
<td>3 - 5.99 hours</td>
<td>3 units</td>
<td>2 units</td>
</tr>
<tr>
<td>0 - 2.99 hours</td>
<td>1 unit</td>
<td>1 unit</td>
</tr>
</tbody>
</table>

2) Recipients may continue to reapply and accumulate up to 120 units, after which point eligibility for program benefits will cease. However, full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which she/he is enrolled for the term.

3) If an eligible recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.

4) In the event that the recipient withdraws from a course or courses prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

5) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of total faculty contact hours.
g) If a current year applicant is discharged, transferred to the inactive Illinois National Guard, or has membership extended by the Illinois National Guard, ISAC will send a revised eligibility letter or ineligibility letter to the applicant. In the case of discharge, a copy of the letter will be sent to the institution of record.

h) Except as otherwise provided in this Part, if a recipient ceases to be an active status member of the Illinois National Guard during a term, benefits cease, and the student is responsible for the unpaid costs attributed to the remainder of the term. If an applicant becomes eligible during a term, in accordance with Section 2730.20(b), benefits will be prorated for that portion of the term for which the applicant is eligible, provided the application is submitted by the deadlines. Costs are prorated on the basis of the institution's scheduled days of instruction minus institutionally scheduled holidays and examination periods.

Calculation: Total tuition cost divided by total instructional days = cost per day x days of eligibility = total proration.

i) If the recipient of a grant awarded under this Part ceases to be a member of the Illinois National Guard, but has been active in the Illinois National Guard for at least five consecutive years and had his or her studies interrupted by being called to federal active duty for at least six months, then that recipient shall continue to be eligible for a grant for one year after his or her discharge from the Illinois National Guard, provided that the recipient has not already received the exemption from tuition and fees for the equivalent of four years of full-time enrollment under this Part.

j) Out-of-state residents will receive tuition and applicable fee benefits equivalent to those received by in-state residents at the Illinois institution; recipients attending out-of-district community colleges will receive tuition and applicable fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-state and out-of-state tuition nor will they be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

k) If a student is eligible for both an Illinois National Guard Grant and a MAP grant, the Illinois National Guard benefits must be used first. A student cannot decline an Illinois National Guard Grant in favor of using MAP.

l) If a recipient of the grant fails to complete his or her military obligation according
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to the agreement, all proceeds received must be repaid to the Illinois Department of Military Affairs. DMAIL will collect the funds, which will be used by ISAC for the purpose of this Part.

(Source: Amended at 32 Ill. Reg. 10305, effective July 1, 2008)

Section 2730.40 Institutional Procedures

a) The institution must establish a qualified applicant's initial eligibility before requesting payment from ISAC. A valid Illinois National Guard Grant eligibility letter may be used for this purpose.

b) When submitting payment requests, the institution shall certify that the recipient meets the grade point average requirements of Section 2730.20(d), Applicant Eligibility.

c) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

d) Payment information will be sent each term to the institution no earlier than the application deadline date for that term. Payment claims must be submitted no later than 30 calendar days after payment information has been sent to the institution by ISAC. Supplemental payment claims must be submitted to ISAC no later than 45 calendar days after the original payment information was sent to the institution with the exception of summer term supplements which must be submitted by the same deadline as the original payment claim for summer term. All payment claims received by ISAC after the designated dates will be paid or prorated during the fiscal lapse period (July 1 through August 31) following the conclusion of the fiscal year. To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

e) Claims will be paid as follows:

1) first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;
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2) if funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

3) if funds still remain after the preceding claims are paid, summer term claims received by the designated deadline date will be paid, or prorated if remaining funds are insufficient to pay all summer claims in full; and

4) in the event that funds are not exhausted by summer term payments, claims received after the designated deadline dates will be paid or prorated.

5) Timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection.

f) Payments on behalf of a recipient will be made to only one institution per term. For any institution that has a concurrent registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.40(h).)

g) Institutions are required to reconcile payments received through this program. Any payments received by the institution that are determined in the reconciliation to be refunds payable to ISAC are to be processed and returned to ISAC no later than 60 days following the end of the academic term. Should the payment arrive after the end of the term, the institution will have 60 days following receipt of payment to complete the reconciliation process and return any refunds to ISAC.

(Source: Amended at 32 Ill. Reg. 10305, effective July 1, 2008)
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Illinois Veteran Grant (IVG) Program

2) **Code Citation:** 23 Ill. Adm. Code 2733

3) **Section Numbers:**
   - 2733.30  Amendment
   - 2733.40  Amendment

4) **Statutory Authority:** Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)]

5) **Effective date of Amendments:** July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of proposal published in Illinois Register:** February 8, 2008; 32 Ill. Reg. 1838

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposed and final version:** The only changes made were non-substantive in nature.

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 rulemakings currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** Language has been added to Section 2733.30(f) permitting schools to require students to provide proof of residency for the purposes of determining in-district or out-of-district payment. Section 2733.40(c) has been modified from "shall certify" to "is certifying" to clarify the action that is occurring in Section 2733.20(d), Applicant Eligibility.
16) Information and questions regarding these adopted amendments shall be directed to:

Lynn Hynes  
Agency Rules Coordinator  
Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, IL  60015

PH: 847/948-8500 ext. 3706  
FAX: (847) 948-5033  
email: lhynes@isac.org

The full text of these Adopted Amendments begins on the following page:
NOTICE OF ADOPTED AMENDMENTS

TITLE 23:  EDUCATION AND CULTURAL RESOURCES
SUBTITLE A:  EDUCATION
CHAPTER XIX:  ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733
ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section 2733.10 Summary and Purpose
Section 2733.20 Applicant Eligibility
Section 2733.30 Program Procedures
Section 2733.40 Institutional Procedures

AUTHORITY:  Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].


Section 2733.30 Program Procedures

a) An applicant must apply to ISAC for assistance under this Part. ISAC will issue a
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Notice of Eligibility to each qualified applicant.

b) To receive an Illinois Veteran Grant, a qualified applicant must notify the institution of his or her eligibility no later than the last scheduled day of classes for the term for which a grant is requested.

c) Benefits are applicable to both undergraduate and graduate enrollment. There are no minimum credit hour enrollment requirements and benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public universities and Illinois public community colleges.

e) Costs exempted by the IVG:

1) The recipient is exempt from paying costs as follows:

   A) tuition and fees that meet the definition of tuition (see 23 Ill. Adm. Code 2700.20);

   B) mandatory fees (see 23 Ill. Adm. Code 2700.20).

2) A qualified applicant who has previously received benefits under this Part for a non-mandatory fee shall continue to receive benefits covering such fees while he or she is enrolled in a continuous program of study. The qualified applicant shall no longer receive a grant covering non-mandatory fees if he or she fails to enroll during an academic term, unless he or she is serving on federal active duty. The non-mandatory fees include the following:

   A) instructional fees not meeting the definition of tuition;

   B) application fees;

   C) graduation and transcript fees;

   D) proficiency exam, College Level Exam Program (CLEP), placement exam and similar fees;
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E) off-campus and other extension course fees;

F) air flight instructor and athletic fees; and

G) matriculation, service and other registration type fees.

f) Recipients attending out-of-district community colleges receive tuition and fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

g) Benefits are limited to the equivalent of four academic years of full-time enrollment, which is measured in eligibility units. Recipients may accumulate up to 120 eligibility units.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

<table>
<thead>
<tr>
<th>Number of Hours</th>
<th>Semester Term</th>
<th>Quarter Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 or more hours</td>
<td>12 units</td>
<td>8 units</td>
</tr>
<tr>
<td>9 - 11.99 hours</td>
<td>9 units</td>
<td>6 units</td>
</tr>
<tr>
<td>6 - 8.99 hours</td>
<td>6 units</td>
<td>4 units</td>
</tr>
<tr>
<td>3 - 5.99 hours</td>
<td>3 units</td>
<td>2 units</td>
</tr>
<tr>
<td>up to 2.99 hours</td>
<td>1 unit</td>
<td>1 unit</td>
</tr>
</tbody>
</table>

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.

3) In the event that a recipient withdraws from a course prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

4) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same
number of faculty contact hours.

5) If, for any reason, the U.S. Department of Veteran Affairs (VA) terminates or suspends a veteran educational benefits program, assistance under this Part shall cease six months following this action. This does not include veterans who have begun receiving educational benefits under this Part. In the event that the VA resumes terminated or suspended educational benefits, all current rules will be enforced.

(Source: Amended at 32 Ill. Reg. 10313, effective July 1, 2008)

Section 2733.40 Institutional Procedures

a) If a student is eligible for both an IVG and a Monetary Award Program (MAP) grant, the IVG benefits must be used first. A student cannot decline IVG benefits in favor of using MAP.

b) A notice of eligibility from ISAC must be used by the institution to establish a qualified applicant's initial eligibility.

c) Institutions shall submit a payment request to ISAC. When submitting payment requests, the institution is certifying that the qualified applicant meets the grade point requirements of Section 2733.20(d).

d) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

e) The deadlines for submission of complete payment requests shall be September 15 for summer terms; January 15 for first term; and May 25 for second semester/second and third quarter. All claims, including supplemental claims, must be received by ISAC no later than July 1.

f) The reimbursement to institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, institutions will be reimbursed in accordance with this subsection:

1) summer term claims received by the deadline date designated in subsection (e) will be paid, or prorated if funding is insufficient to pay all
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

claims in full;

2) if funds remain after summer term claims are paid, first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

3) if funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

4) if funds remain after second semester/second and third quarter claims are paid, claims received by ISAC after the designated deadline dates will be paid or prorated; and

5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection (f).

(Source: Amended at 32 Ill. Reg. 10313, effective July 1, 2008)
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Higher Education License Plate (HELP) Grant Program

2) **Code Citation**: 23 Ill. Adm. Code 2737

3) **Section Numbers**: 
   - 2737.10 Amendment
   - 2737.20 Amendment
   - 2737.30 Amendment

4) **Statutory Authority**: Implementing Section 37 of the Higher Education Student Assistance Act [110 ILCS 947/37] and Section 3-629 of the Illinois Vehicle Code [625 ILCS 5/3-629] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 20(f)]

5) **Effective Date of Amendments**: July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of proposal published in Illinois Register**: February 8, 2008; 32 Ill. Reg.1845

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposed and final version**: No changes were made after initial publication.

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 rulemakings currently in effect?** No

14) **Are there any amendments pending on this Part?** No.

15) **Summary and purpose of Rulemaking**: This Part is being amended to accommodate Public Act 095-0444, effective August 27, 2007, to maintain consistency in grants
awarded for students attending eligible private colleges and universities in the contiguous states. Language has been added to Sections 2737.10(a) and 2737.20(a)(3) to reflect this. Section 2737.30(c) has been amended to reflect that moneys collected by the State Treasurer for the issuance of special collegiate license plates will be distributed, subject to appropriation, through the Illinois Student Assistance Commission to participating private colleges and universities for the sole purpose of scholarship grant awards to Illinois residents.

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

   Lynn Hynes
   Agency Rules Coordinator
   Illinois Student Assistance Commission
   1755 Lake Cook Road
   Deerfield, IL  60015

   847/948-8500, ext. 3706
   FAX:  847/948-5033
   email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2737
HIGHER EDUCATION LICENSE PLATE (HELP) GRANT PROGRAM

Section 2737.10  Summary and Purpose

The Secretary of State is authorized to issue special collegiate license plates on behalf of eligible, participating institutions of higher learning. A portion of the proceeds of such license plates sold by the Secretary is appropriated annually to ISAC for the purposes of administering a grant program for students attending degree-granting, not-for-profit private colleges and universities located in Illinois or a contiguous state.

This Part establishes rules that govern the HELP Program. Additional rules and definitions are contained in General Provisions, (23 Ill. Adm. Code 2700).

(Source: Amended at 32 Ill. Reg. 10320, effective July 1, 2008)

Section 2737.20  Applicant Eligibility

A qualified applicant shall be:
NOTICE OF ADOPTED AMENDMENTS

1) a citizen or eligible noncitizen;
2) a resident of Illinois;
3) enrolled at a degree-granting, not-for-profit private college or university located in Illinois or a contiguous state that participates in the collegiate license plate program through the Secretary of State; and
4) able to demonstrate financial need according to a nationally recognized need analysis system.

b) A recipient of assistance under this program who applies for a renewal award must, in addition to continuing to meet the criteria specified in subsection (a) of this Section, be maintaining satisfactory academic progress as determined by the institution.

c) Eligibility is restricted to undergraduate students. Recipients must not have received a baccalaureate degree.

(Source: Amended at 32 Ill. Reg. 10320, effective July 1, 2008)

Section 2737.30 Program Procedures

a) All applicants must complete and file the form that the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purposes of determining financial need.

b) ISAC shall be notified in January of each year of all moneys deposited by the Secretary of State into the University Grant Fund, on behalf of each participating institution, from the issuance or renewal of collegiate license plates during the previous calendar year. The Secretary of State shall deposit $25 per each set of license plates issued or renewed into the University Grant Fund on behalf of the institution.

c) Each State fiscal year, all moneys deposited into the University Grant Fund shall, subject to appropriation, be distributed to ISAC to make reimbursements to participating private colleges and universities for grants made pursuant to this Part.
d) A recipient may receive the equivalent of 10 semesters/15 quarters of full-time award payments.

(Source: Amended at 32 Ill. Reg. 10320, effective July 1, 2008)
1) **Heading of the Part:** State Scholar Program

2) **Code Citation:** 23 Ill. Adm. Code 2760

3) **Section Numbers:**
   - 2760.20 Amendment
   - 2760.30 Amendment

4) **Statutory Authority:** Implementing Section 25 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/25 and 20(f)]

5) **Effective Date of Amendments:** July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 1850; February 8, 2008

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

11) **Differences between proposed and final version:** No changes were made to the proposed rulemaking after initial publication.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** No agreements were necessary.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This Part is being amended to update the standardized test names. The ACT and SAT have been changed to reflect their correct names and the Prairie State Achievement Exam (PSAE) has been added. Section 2760.20(b) has been changed to clarify that there are now three standardized tests instead of two and that a student may take a test more than one time. Also, Section 2760.30(a)
ILLINOIS STUDENT ASSISTANCE COMMISSION

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has been amended to allow ISAC to request the submission of academic data in an approved format.

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

   Lynn Hynes
   Agency Rules Coordinator
   Illinois Student Assistance Commission
   1755 Lake Cook Road
   Deerfield, IL  60015

   847/948-8500, ext. 3706
   FAX:  847/948-5033
   email:  lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
Section 2760.10  Summary and Purpose
Section 2760.20  State Scholar Eligibility
Section 2760.30  Program Procedures

AUTHORITY: Implementing Section 25 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/25 and 20(f)].


Section 2760.20  State Scholar Eligibility

a) To be considered for the State Scholar Program, a high school student shall:

1) demonstrate superior academic potential as measured by test scores and high school records;
ILLINOIS STUDENT ASSISTANCE COMMISSION

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2) be a United States citizen or eligible noncitizen;

3) be a resident of Illinois;

4) rank in the upper half of his/her high school class at the end of the third semester prior to graduation from high school (normally the sixth semester); and

5) attend an approved high school.

b) To be considered for the State Scholar Program, a student must take either the ACT, Assessment or the College Board's SAT I: Reasoning Test, or the Prairie State Achievement Exam (PSAE) during the third or fourth semester prior to graduation from high school (e.g., for a student attending high school for the traditional eight semesters, the exam must be taken during the fifth or sixth semester).

1) A student may take one or a combination of these either or both examinations during the designated period. A student may also take the same standardized test more than once.

2) All scores from such tests taken during the designated period must be submitted to ISAC.

3) If a student submits scores from multiple examinations taken during the designated period, ISAC will use the highest score.

4) When a student submits scores to ISAC, the student must report his/her academic level at the time the test was taken.

c) ISAC will accept supplementary score reports of tests taken during the designated period upon the student's authorization to the test service. Such authorization by the student must be received by ISAC before August 1.

d) Students who, for any reason, are unable to take a test on a regular testing date should make special arrangements to be tested in accordance with the procedures of the testing service. Any such special arrangements must take into account the test score submission deadline in subsections (b) and (c) of this Section.
Section 2760.30 Program Procedures

a) In order for its students to be considered for the State Scholar Program, a high school is to submit, in a format approved by ISAC, class ranks as of the third semester prior to graduation for students who desire to be considered for the Program. For high schools that cannot provide class ranks, non-weighted grade point averages as of the third semester prior to graduation must be provided.

1) Class ranks are calculated so that the class rank for the lowest grade point average (GPA) equals the total number of students being ranked.

<table>
<thead>
<tr>
<th>Example: Class Rank</th>
<th>GPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>99.3</td>
</tr>
<tr>
<td>2</td>
<td>98.9</td>
</tr>
<tr>
<td>2</td>
<td>98.9</td>
</tr>
<tr>
<td>4</td>
<td>98.1</td>
</tr>
<tr>
<td>5</td>
<td>97.9</td>
</tr>
<tr>
<td>5</td>
<td>97.9</td>
</tr>
<tr>
<td>7</td>
<td>97.4</td>
</tr>
</tbody>
</table>

2) The equivalent term rank shall be provided for students planning to graduate in other than the traditional four years (see Section 2760.20(b)).

b) Test scores submitted in accordance with this Part shall be converted to an Illinois Standard Test Score as follows:

1) The ACT composite score shall be the Illinois Standard Test Score.

2) SAT critical reading and math scores shall be added, and then converted to the Illinois Standard Test Score using the table below.

<table>
<thead>
<tr>
<th>Illinois Standard Test Score</th>
<th>SAT Critical Reading + Math</th>
<th>ACT or PSAE Composite</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAT Critical Reading + Math</td>
<td>ACT or PSAE Composite</td>
<td></td>
</tr>
</tbody>
</table>

Illinois Standard Test Score Table
c) High school class ranks submitted in accordance with this Part shall be converted to an Illinois Standard Rank Score as follows:

1) First, determine the percentile of the class rank for each student in accordance with the following formula:

\[
\text{Percentile} = \frac{\text{Size of Class MINUS (Rank in Class minus .5)}}{\text{Size of Class}}
\]
2) Then, use the table below to convert a percentile class rank to the Illinois Standard Rank Score.

<table>
<thead>
<tr>
<th>Percentile</th>
<th>Illinois Standard Rank Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.75 - 99.99</td>
<td>30</td>
</tr>
<tr>
<td>99.54 - 99.74</td>
<td>29</td>
</tr>
<tr>
<td>99.19 - 99.53</td>
<td>28</td>
</tr>
<tr>
<td>98.62 - 99.18</td>
<td>27</td>
</tr>
<tr>
<td>97.73 - 98.61</td>
<td>26</td>
</tr>
<tr>
<td>96.42 - 97.72</td>
<td>25</td>
</tr>
<tr>
<td>94.53 - 96.41</td>
<td>24</td>
</tr>
<tr>
<td>91.93 - 94.52</td>
<td>23</td>
</tr>
<tr>
<td>88.50 - 91.92</td>
<td>22</td>
</tr>
<tr>
<td>84.14 - 88.49</td>
<td>21</td>
</tr>
<tr>
<td>78.82 - 84.13</td>
<td>20</td>
</tr>
<tr>
<td>72.58 - 78.81</td>
<td>19</td>
</tr>
<tr>
<td>65.55 - 72.57</td>
<td>18</td>
</tr>
<tr>
<td>57.94 - 65.54</td>
<td>17</td>
</tr>
<tr>
<td>50.00 - 57.93</td>
<td>16</td>
</tr>
</tbody>
</table>

d) An Illinois Weighted Selection Score for each student shall be computed by adding the Illinois Standard Test Score to the Illinois Standard Rank Score.

e) In any academic year, the number of State Scholars is approximately equal to ten percent of the estimated total number of Illinois high school graduates. ISAC annually establishes a minimum Weighted Selection Score to yield this result.

f) Notwithstanding the previous provisions in this Section, any student nominated by his or her school shall be designated a State Scholar if that student achieves a score at or above the 95th percentile on the ACT Assessment examination, or the equivalent thereof on a comparable examination, regardless of that student's class rank.

g) A Certificate of Achievement and congratulatory letter are issued for each State Scholar.

h) A listing of State Scholars shall be available upon request to colleges, members of the General Assembly and to the media.
i) Mailing labels of State Scholars' names shall be available, at cost, to Illinois colleges, universities and associations of Illinois colleges. Payment must be received by ISAC at the time the mailing labels are ordered. Requestors of labels shall provide written assurance to ISAC that the labels will not be resold or released to others in any manner.

j) High school officials or student candidates shall have a period of 60 days following the announcement of the State Scholars to appeal a student's status. (See: 23 Ill. Adm. Code 2700.70, Appeal Procedures.)

k) If an appeal concerning an applicant's eligibility is received, ISAC shall request the high school verify the reported data. If the conflict remains, ISAC shall conduct an audit of the high school's records in accordance with 23 Ill. Adm. Code 2700.60.

(Source: Amended at 32 Ill. Reg. 10325, effective July 1, 2008)
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Illinois Future Teacher Corps (IFTC) Program

2) Code Citation: 23 Ill. Adm. Code 2764

3) Section Number: Adopted Action:
   2764.30 Amendment

4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)]

5) Effective Date of Amendment: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of this adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: February 8, 2008; 32 Ill. Reg. 1858

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

11) Differences between proposed and final version: Changes were made in Section 2764.30(c) to adequately describe the ISAC procedures and to establish a point based system for awarding scholarship assistance. Language was added to Section 30(c) and (j) to clarify that early childhood education is considered a teacher shortage area.

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 rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: A change is proposed in Section 2764.30(b)(1) to clarify the availability of applications for this program. In Section 2764.30(c) language
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

has been added and reordered to describe priority processing for purposes of awarding in
more detail.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL  60015

PH:  847/948-8500 ext. 3706
FAX:  (847) 948-5033
email: lhynes@isac.org

The full text of this Adopted Amendment begins on the following page:
NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2764
ILLINOIS FUTURE TEACHER CORPS (IFTC) PROGRAM

Section
2764.10 Summary and Purpose
2764.20 Applicant Eligibility
2764.30 Program Procedures
2764.40 Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].


Section 2764.30 Program Procedures

a) All applicants must complete and file the form which the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) that is used as a selection criterion for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)

b) A completed ISAC application for the IFTC Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an
ILLINOIS STUDENT ASSISTANCE COMMISSION

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award.

1) Applications are available at qualified institutions of higher learning, ISAC's Web site, and ISAC's Springfield, Deerfield and Chicago offices. ISAC applications are available from qualified institutions of higher learning, State legislative and Congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.

2) ISAC will make renewal applications available to all qualified students who were awarded assistance under this Part during the preceding academic year.

3) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.

c) Selection of Recipients

1) ISAC shall give first preference in the selection process to the previous academic year's recipients of assistance under this Part, provided he or she meets the following qualifications:

   A) continues to maintain a cumulative grade point average (GPA) of no less than 2.5 on a 4.0 scale;

   B) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a);

   C) maintains satisfactory academic progress as determined by the institution; and

   D) has submitted an application on a timely basis.

2) For all other qualified applicants, priority, in combination with the following criteria, is given to those who filed timely applications and are enrolled in a teacher shortage discipline (including early childhood education), pledged on the Teaching Agreement/Promissory Note to teach
ILLINOIS STUDENT ASSISTANCE COMMISSION

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in a hard-to-staff school, or enrolled in a teacher shortage discipline and pledged to teach in a hard-to-staff school. Point values are assigned to the criteria and awards are made according to the highest point totals.

A) Cumulative grade point averages: 0-40 points, reflecting the GPA from highest to the lowest. All grade point averages will be converted to a four-point scale;

B) Expected Family Contribution (EFC): 0-30 points, from the lowest to the highest;

C) Minority students: 15 points.

ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:

1) Cumulative grade point averages, prioritized from the highest to the lowest. All grade point averages will be converted to a four-point scale;

2) Expected Family Contribution (EFC), from the lowest to the highest;

3) Minority students shall receive priority consideration; and

4) Recipients of assistance under this Part during the previous academic year shall receive first priority consideration provided the student:

A) continues to maintain a cumulative grade point average of no less than 2.5 on a 4.0 scale;

B) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a) of this Part, Applicant Eligibility;

C) maintains satisfactory academic progress as determined by the institution; and
Illinois Student Assistance Commission

Notice of Adopted Amendment

D) has submitted an application on a timely basis.

5) Preference may also be given to qualified applicants enrolled in teacher shortage disciplines, which shall include early childhood education.

3d) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.

d) A recipient may receive up to 4 semesters/6 quarters of scholarship assistance under this program.

ef) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.

fg) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.

gh) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors and scholarship amounts established by this Section.

hi) ISAC shall publish guidelines for the awarding of IFTC scholarships.

ij) Notice of eligibility shall be sent by ISAC to each qualified applicant who is selected to receive an IFTC scholarship. A notice will be sent by ISAC to each qualified applicant who is not selected to receive an IFTC scholarship.

jk) Prior to receiving scholarship assistance for any academic year, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:

1) the recipient pledges to teach, on a full-time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline (which shall include early childhood education) or and/or at a hard-to-staff school or both, as applicable;

2) the recipient shall begin teaching within one year following completion of
NOTICE OF ADOPTED AMENDMENT

the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;

3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school and if the award made under this Part was for teaching at a hard-to-staff school, the school must qualify for teacher loan cancellation under section 465(a)(2)(A) of the HEA (see 20 USC 1087ee);

4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;

5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and

6) the recipient promises to use the proceeds of the scholarship for educational expenses.

A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to subsection (j)(k) of this section during the period in which the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or

3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or

4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (j)(3) of this section.
NOTICE OF ADOPTED AMENDMENT

Section for one continuous period not to exceed two years, and is able to provide evidence of that fact; or

5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or

6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching commitment.

If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or

3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or

4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.

During the time a recipient qualifies for any of the extensions listed in subsection (lm) of this Section, he or she shall not be required to make payments and interest shall not accrue.

A recipient shall enter repayment status on the earliest of the following dates:

1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher, but not until
ILLINOIS STUDENT ASSISTANCE COMMISSION

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six months have elapsed after the cessation of at least half-time enrollment in such a course of study;

2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or

3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.

A recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

Renewal recipients may receive a subsequent award even if their discipline is no longer on the approved list of teacher shortage disciplines.

(Source: Amended at 32 Ill. Reg. 10333, effective July 1, 2008)
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: College Savings Bond Bonus Incentive Grant (BIG) Program

2) Code Citation: 23 Ill. Adm. Code 2771

3) Section Numbers: Adopted Action:
   2771.20 Amendment
   2771.30 Amendment
   2771.40 Amendment

4) Statutory Authority: Implementing and authorized by Section 8 of the Baccalaureate Savings Act [110 ILCS 920/8]

5) Effective Date of Amendments: July 1, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: February 8, 2008; 32 Ill. Reg. 1866

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: The only change made was non substantive in nature.

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 rulemakings currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Amendments to this Part provide clarification as to the enrollment requirements of the student beneficiary and the timeframe during which complete applications are accepted at ISAC. Language also has been added in Section 2771.30(a) that describes priority processing for the purposes of awarding.
NOTICE OF ADOPTED AMENDMENTS

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

Lynn Hynes  
Agency Rules Coordinator  
Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, IL  60015

847/948-8500, ext. 3706  
FAX: 847/948-5033  
email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
Section 2771.20  Applicant Eligibility

a) A bondholder shall:

1) be able to furnish documentation that demonstrates that he or she has continuously owned the Illinois college savings bonds for at least the 12 months preceding the date of maturity or, for an Illinois college savings bonds with an original maturity date of less than 12 months, that he or she has owned the bonds for at least the six months preceding the date of maturity, unless the bonds were acquired by gift or under the laws of descent and distribution; and

2) use at least 70 percent of the bond proceeds for costs incident to
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enrollment that which are reasonably incurred by the student beneficiary during an academic year, including tuition and fees, room and board, books and supplies, child care expenses, laundry, travel, and other personal expenses related to attendance at the eligible institution of higher learning.

b) A student beneficiary shall be:

1) designated by a bondholder as the recipient of a grant pursuant to this Part;

2) the beneficiary of at least 70 percent of the bond proceeds paid at maturity;

3) the beneficiary of not more than $25,000 worth of bond proceeds in any single academic year; and

4) enrolled or accepted for enrollment and registered for classes on at least a half-time basis at an eligible non-profit institution of higher learning that which is not organized solely for the purpose of religious instruction.

(Source: Amended at 32 Ill. Reg. 10342, effective July 1, 2008)

Section 2771.30 Program Procedures

a) Application Procedures

1) Applications for a BIG shall be available from the Illinois Student Assistance Commission (ISAC) and eligible non-profit institutions of higher learning.

2) A complete application for BIG assistance shall include certifications from: the bondholder, the student beneficiary and the Registrar of the institution of higher learning at which the student beneficiary is enrolled or accepted for enrollment and registered for classes.

3) A bondholder or a student beneficiary must submit a BIG application no earlier than August 1 between August 1 and May 30 of the academic year for which assistance is being requested. Applications will be accepted until such time ISAC determines that all funds are committed or until May 30 of the academic year for which assistance is being requested.
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whichever is earlier All grants under this program are subject to sufficient annual appropriations for this program by the General Assembly.

4) All grants under this program are subject to sufficient annual appropriations by the General Assembly. If appropriations are insufficient to provide all qualified applicants with an award, available funds shall be allocated on the basis of the dates that the complete applications are received in ISAC's Deerfield office.

54) ISAC may require applicants to provide documentation verifying that the bondholder owned the bonds for the requisite length of time.

65) One student beneficiary may be designated for each bond redeemed. In cases where two individuals jointly own a college savings bond, only one student beneficiary may be designated.

b) Application Certifications

1) The bondholder shall certify that:

A) the aggregate compound accreted value at maturity of the college savings bonds was not more than $25,000;

B) at least 70 percent of the proceeds of the college savings bonds have been or will be used for educational expenses incurred by the student beneficiary during an academic year;

C) the student named on the application has been designated as the beneficiary of the bond proceeds;

D) no other student has been designated as the student beneficiary for the same college savings bond;

E) the information provided on the application with regard to the bonds is true and correct, including the date on which the bonds were issued, the date on which the bonds were acquired and the date on which the bonds matured; and

F) the preceding certifications are being provided for the academic
ILLINOIS STUDENT ASSISTANCE COMMISSION

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year in which the application is being submitted.

2) The student beneficiary shall certify that:

A) his or her address, Social Security Number and other identifying information is accurate;

B) at least 70% of the proceeds of the College Savings Bonds will be used for educational expenses;

C) he or she is enrolled or accepted for enrollment and registered for classes at an eligible non-profit institution of higher learning;

D) he or she will use the BIG proceeds to finance educational expenses that are reasonably incurred during an academic year, including tuition and fees, room and board, books and supplies, child care expenses, laundry, travel and other personal expenses related to attendance at the institution of higher learning; and

E) he or she will not use the BIG proceeds to finance costs incurred in an academic program of divinity for any religious denomination or in a course of study to become a minister, priest, rabbi or other professional in the field of religion.

c) The dollar value of the BIG shall be determined according to the Table of Grant Amounts (see Appendix A of this Part); provided, however, that:

1) the compound accreted value of the bonds shall not exceed $25,000 in any given academic year;

Example: A BIG could not be claimed for more than 5 bonds of $5,000 compound accreted value each in any given year. Even if 12 bonds of $5,000 compound accreted value each, or $60,000 total, had been purchased on behalf of a beneficiary, a BIG could be paid only for the first $25,000.

2) 70 percent of the compound accreted value of the bonds for which a BIG is being claimed in a given academic year does not exceed the beneficiary's cost of attendance at the institution of higher learning for that
Example: The beneficiary's cost of attending University A is $14,000. Since $14,000 is 70 percent of $20,000, a BIG could not be claimed for bonds with a compound accreted value in excess of $20,000. Even if 5 bonds of $5,000 compound accreted value each, or $25,000 total, had been purchased on behalf of the beneficiary, in this case a BIG could be paid only on the first $20,000.

d) Both the proceeds of the bonds and the BIG assistance must be used by the student beneficiary in the academic year in which the bond matures or in the academic year immediately following maturity.

(Source: Amended at 32 Ill. Reg. 10342, effective July 1, 2008)

Section 2771.40 Institutional Procedures

a) The institution shall certify that the student beneficiary is enrolled or accepted for enrollment and registered for classes at least half time.

b) BIG proceeds will be paid to institutions of record; however, proceeds may be remitted directly to the student beneficiary if the institution designates ISAC as its disbursing agent for this purpose.

(Source: Amended at 32 Ill. Reg. 10342, effective July 1, 2008)
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Illinois Prepaid Tuition Program

2) **Code Citation:** 23 Ill. Adm. Code 2775

3) **Section Numbers:**
   - 2775.10 Amendment
   - 2775.50 Amendment

4) **Statutory Authority:** Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) **Effective date of Amendments:** July 1, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Notice of proposal published in Illinois Register:** February 8; 2008; 32 Ill. Reg. 1873

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposed and final version:** No changes were made to the proposed rulemaking after initial publication.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** No agreements were necessary.

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** In Section 2775.10, a service mark symbol "SM" has been added to College Illinois!. An application to The United States Patent and Trademark Office has been submitted for the mark College Illinois!. Amending Section 2775.50(b)(2) to delete language for contracts to which that provision applied. These
contracts have been in force for more than three years, so the restriction is no longer needed.

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

   Lynn Hynes
   Agency Rules Coordinator
   Illinois Student Assistance Commission
   1755 Lake Cook Road
   Deerfield, IL  60015

   847/ 948-8500, ext. 3706
   FAX:  847/948-5033
   email: lhynes@isac.org

The full text of the Adopted Amendments begins on the following page:
Section 2775.10 Summary and Purpose

a) The Illinois Prepaid Tuition Program, also known as College Illinois!SM, provides Illinois families with a tax-advantaged method of saving for college. The purpose of the program is to encourage and better enable Illinois families to help themselves finance the cost of higher education.

b) This Part establishes rules that govern the Illinois Prepaid Tuition Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

(Source: Amended at 32 Ill. Reg. 10349, effective July 1, 2008)
a) Contract Types

The program shall offer purchasers at least two different types of contracts: a public university plan and a community college plan. Additional contract plans may be offered. All contract types shall cover registration fees.

1) The public university plan specifies that no more than 9 terms, or 135 credit hours, at an Illinois public university may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

2) The community college plan specifies that no more than 4 terms, or 60 credit hours, at an Illinois community college may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

3) No more than an aggregate of 135 credit hours of benefits may be purchased on behalf of any qualified beneficiary.

b) Contract Benefits

1) The registration fees contracted for by the purchaser shall be paid directly to the institution at the time of enrollment of the qualified beneficiary. The credit hours purchased may be used during any term of postsecondary undergraduate enrollment. A bona fide social security number must be on file prior to payment of benefits.

2) **No** For contracts sold prior to October 31, 2001, no contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the date the contract was purchased. For contracts sold on or after October 31, 2001, no contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the due date of the first contract payment.

3) No interest in all or any portion of a contract may be used as security for a loan.

c) Contract Requirements
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1) Purchasers must name a qualified beneficiary in the application. Only one qualified beneficiary is allowed per contract. A separate accounting will be provided for each designated beneficiary.

2) In the event duplicate applications for the same qualified beneficiary are processed, the application processed first shall be deemed valid and the remaining application or applications shall be deemed valid, if and only if, they provide for registration fees not already covered by previous applications.

3) The purchaser does not have to designate the postsecondary institution which the qualified beneficiary is expected to attend.

4) The benefits of a contract may be used within three years in advance of the selected matriculation date indicated in the application with no penalty or additional cost. However, to utilize a contract prior to the selected matriculation date, the purchaser must pay the contract in full before changing such matriculation date.

5) Benefits may be received for up to a 10-year period after the qualified beneficiary's first enrollment date. This 10-year limitation may be extended upon application to the Commission and the payment of a renewal fee assessed at that time. Any time spent by the qualified beneficiary in active military service shall not count as part of the time period for receiving contract benefits under all contract plans.

6) The purchaser and qualified beneficiary are prohibited from directing the investment of any contributions to the program.

d) Contract Exclusions

1) Prepaid tuition contract plans do not cover payment of registration fees for graduate programs, adult basic programs, adult secondary programs, or postsecondary adult vocational programs.

2) Purchasers may request approval to apply unexpended prepaid tuition credits toward payment of graduate school registration fees, in cases where other prepaid tuition contract benefits already have been utilized for undergraduate education and an undergraduate degree has been conferred.
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e) Change of Purchaser and Change of Qualified Beneficiary

1) The purchaser of a contract may be changed upon written request of the original purchaser and the new purchaser. The new purchaser must meet the requirements of a qualified purchaser contained in the master agreement other than the residency requirement. (See Section 2775.30(a).)

2) Upon written request, contract benefits may be transferred by the purchaser to a new qualified beneficiary prior to actual use. The new qualified beneficiary must be a member of the family of the original qualified beneficiary but need not meet the residency requirement. (See Section 2775.30(a).)

f) Benefit Portability and Conversion Between Illinois Public Universities and Illinois Community Colleges

1) Public university plan benefits may be converted for usage at community colleges and community college plan benefits may be converted for usage at public universities.

2) Benefits shall be converted by referencing the relative current average mean-weighted credit hour value of registration fees purchased under the contract. Such benefit conversions shall be authorized on a term-by-term basis and no fee shall be assessed for conversion of benefits among in-State public institutions.

g) Benefit Portability and Conversion to Nonpublic and Out-of-State Higher Education Institutions

1) Public university plan and community college plan contract benefits may be converted for payment of registration fees at nonpublic and out-of-state not-for-profit higher education institutions.

2) Benefits shall be converted by referencing the current average mean-weighted credit hour value of registration fees purchased under the contract. Each term, the Commission shall transfer this amount to the nonpublic or out-of-state institution on behalf of the qualified beneficiary.
ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 10349, effective July 1, 2008)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Procedures for Transportation Workplace Drug and Alcohol Testing Programs

2) Code Citation: 92 Ill. Adm. Code 340

3) Section Numbers: Adopted Action:
   340.1000    New Section
   340.1010    New Section

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

5) Effective Date of Rules: June 25, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? Yes

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 2452; February 15, 2008

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 340.1010(a), last line, "regulations" has been stricken and "safety" has been added to correct the Division's website address.

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

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

14) Are there any amendments pending on this Part? No
15) **Summary and Purpose of Rules:** By this Notice, the Department has incorporated the October 1, 2006 edition of 49 CFR 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

The Department has incorporated by reference the federal drug and alcohol testing procedures pursuant to Section 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/18b-105]. The Department has adopted 49 CFR 40 in its entirety as it currently applies at the federal level to operators of applicable interstate, as well as intrastate, commercial motor vehicles. This rulemaking will not further expand the applicability of the drug and alcohol testing procedures beyond the scope US Dot's applicability. 49 CFR 40 prescribes the drug and alcohol testing procedures used by all agencies under the jurisdiction of US DOT (e.g., Departments of Aviation, Railroads, Highways, and Maritime) and prescribes requirements with respect to how specimens are to be taken, who may collect specimens, and the qualifications of the medical review officers and substance abuse professionals.

16) **Information and questions regarding these adopted rules shall be directed to:**

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

   217/785-1181

The full text of the Adopted Rules begins on the next page:
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

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

PART 340
PROCEDURES FOR TRANSPORTATION WORKPLACE
DRUG AND ALCOHOL TESTING PROGRAMS

Section 340.1000 Purpose

This Part prescribes the requirements that all parties who conduct drug and alcohol tests required by the United States Department of Transportation's regulations must follow concerning how to conduct those tests and what procedures to use.

Section 340.1010 Incorporation by Reference of 49 CFR 40

a) The Department incorporates by reference 49 CFR 40 as that part was in effect on October 1, 2006. No later amendments to or editions of 49 CFR 40 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The Federal Motor Carrier Safety Regulations are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safety.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Special Training Requirements

2) **Code Citation:** 92 Ill. Adm. Code 380

3) **Section Numbers:**
   - 380.1010 Amend
   - 380.1020 Amend

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

5) **Effective Date of Amendments:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2456; February 15, 2008

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 380.1020(a), last line, "regulations" has been stricken and "safety" has been added to correct the Department's website address.

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

13) **Will these amendments replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendments:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 380 to the October 1, 2006 edition of 49 CFR. The
DEPARTMENT OF TRANSPORTATION

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Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal Motor Carrier Safety Regulations referenced in Section 380.1020(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

At Section 380.1010, the Department updated CFR citations to maintain consistency with the federal regulations, added a CFR citation to the definition of "Disqualification" that was inadvertently omitted in a previous rulemaking, and added a new definition of "LCV triple" since employers are required to provide training regarding the handling of triples in the event that a driver operates a triple-trailer combination in another state where triples are legal to operate (triple-trailers are illegal in Illinois).

At Section 380.1020, the Department deleted a subsection that currently excludes the federal provisions on triple-trailers from this Part. Those provisions will now be included in the incorporation by reference of the latest edition of 49 CFR 380 for the above-stated reason.

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

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

217/785-1181

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

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

PART 380
SPECIAL TRAINING REQUIREMENTS

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

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


Section 380.1010 Definitions

As used in this Part:

"Alcohol or alcoholic beverage" means:

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

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

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

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

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

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle –

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

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

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

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

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. (49 CFR 383.5, October 1, 2006)

"Disqualification" means any of the following three actions:

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

Any withdrawal of a person's privileges to drive a CMV by a state or other jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).
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A determination by the FMCSA that a person is not qualified to operate a CMV under 49 CFR 391. (49 CFR 383.5, October 1, 2006)

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

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

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

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

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

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

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

"Longer combination vehicle" or "LCV" means any combination of a truck-tractor and two trailers or semi-trailers that operates on the highways of Illinois with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).
"LCV double" means an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers. (49 CFR 380.105, October 1, 2006)

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

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

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

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

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

"Tank vehicle" means any CMV that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons. (49 CFR 383.5, October 1, 2006)

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

"Vehicle" means a motor vehicle unless otherwise specified. (49 CFR 383.5, October 1, 2006)
Section 380.1020  Incorporation by Reference of 49 CFR 380

a) The Department incorporates by reference 49 CFR 380 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006, subject only to the exceptions in subsection (c) of this Section. No later amendments to or editions of 49 CFR 380 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to and deletions from 49 CFR 380 shall apply for purposes of this Part.

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

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

2) 49 CFR 380.105 is deleted and not incorporated.

3) 49 CFR 380.205 is deleted and not incorporated.

4) 49 CFR 380.501 is not incorporated and the following is substituted therefor:

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

| 45) 49 CFR 380.502 is deleted and not incorporated.
| 56) 49 CFR 380.509(a) is not incorporated and the following is substituted therefor:

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

(Source: Amended at 32 Ill. Reg. 10359, effective June 25, 2008)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Controlled Substance and Alcohol Use and Testing

2) **Code Citation:** 92 Ill. Adm. Code 382

3) **Section Numbers:**
   - Adopted Action:
     - 382.1000  New Section
     - 382.1010  New Section

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

5) **Effective Date of Rulemaking:** June 25, 2008

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 rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2465; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 382.1010(a), last line, "regulations" has been stricken and "safety" has been added to correct the Division's website address.

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

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

14) Are there any amendments pending on this Part?  No

15) **Summary and Purpose of Rulemaking:** By this Notice, the Department has incorporated by reference 49 CFR 382, Controlled Substance and Alcohol Use and Testing, as of
October 1, 2006. The Department has incorporated by reference the federal controlled substance and alcohol use and testing requirements pursuant to Section 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/18b-105]. The Department adopted 49 CFR 382 in its entirety as it currently applies at the federal level to those interstate, as well as intrastate, operators required to obtain a commercial driver's license. This rulemaking will not further expand the applicability of the drug and alcohol testing requirements beyond the scope of US DOT's applicability. 49 CFR 382 and this new Part are not new to the motor carrier industry in Illinois. US DOT initiated the controlled substance testing program in 1989 and the alcohol testing requirements in 1994. 49 CFR 382 provides specific guidelines for the motor carrier industry regarding when a driver has to be tested, what occurs when a driver's test is positive, and what records must be kept by the carriers.

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

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

217/785-1181

The full text of the Adopted Rules begins on the next page:
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

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

PART 382
CONTROLLED SUBSTANCE AND ALCOHOL USE AND TESTING

Section
382.1000 Purpose
382.1010 Incorporation by Reference of 49 CFR 382

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


Section 382.1000 Purpose

This Part establishes programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of certain commercial motor vehicles.

Section 382.1010 Incorporation by Reference of 49 CFR 382

a) 49 CFR 382 is hereby incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006. No later amendments to or editions of 49 CFR 382 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safety.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED RULES

1) **Heading of the Part**: Commercial Driver's License Standards; Requirements and Penalties

2) **Code Citation**: 92 Ill. Adm. Code 383

3) **Section Numbers**: Adopted Action:
   - 383.1000    New Section
   - 383.1010    New Section

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

5) **Effective Date of Rules**: June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these rules contain incorporations by reference?** Yes

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: 32 Ill. Reg. 2469; February 15, 2008

10) **Has JCAR issued a Statement of Objection to these rules?** No

11) **Differences between proposal and final version**: Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 383.1010(a), the Department corrected the website address.

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

13) **Will these rules replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rules**: By this Notice, the Department has incorporated by reference certain sections of 49 CFR 383 as of October 1, 2006.
This Part was added to the Illinois Motor Carrier Safety Regulations (IMCSR) to be used in conjunction with 92 Ill. Adm. Code 340 and 382 that are applicable only to operators who drive CDL-regulated vehicles. Incorporating these three Parts into the IMCSR will make enforcement of the IMCSR easier for the Department. Currently, the Department cites to a general provision in 92 Ill. Adm. Code 392 that incorporates by reference 49 CFR 392.2 that states, in general terms, every commercial motor vehicle must be operated in accordance with the regulations of the jurisdiction in which the vehicle is being operated. The Department will now be able to cite to a more specific regulation when a carrier is in violation of the IMCSR. The provisions of this new Part are not new to industry. Since 1992, drivers who operate the following vehicles have been required to obtain a commercial driver's license (CDL).

Any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the vehicles being towed is in excess of 10,000 pounds;

Any single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR; or

Any single vehicle, or combination of vehicles, that does not meet the definitions above, but is designed to transport 16 or more passengers including the driver, or is used in the transportation of placarded hazardous materials.

The Federal Motor Carrier Safety Administration, at 49 CFR 383.3(d), and the Uniform Commercial Driver's License Act (the UCDLA) [625 ILCS 5/Ch. 6, Art. V] provide exceptions to the requirements of this Part for certain operators of the aforementioned vehicles in Illinois, e.g., farmers. See 625 ILCS 5/6-507(c) for exceptions authorized by the UCDLA. Those exceptions apply for purposes of this Part.

Information and questions regarding these adopted rules shall be directed to:

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

217/785-1181

The full text of the Adopted Rules begins on the next page:
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

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

PART 383
COMMERCIAL DRIVER'S LICENSE STANDARDS;
REQUIREMENTS AND PENALTIES

Section 383.1000 Purpose
383.1010 Incorporation by Reference of 49 CFR 383

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


Section 383.1000 Purpose

The purpose of this Part is to help reduce or prevent truck and bus accidents, fatalities, and injuries by requiring drivers to have a single commercial motor vehicle driver's license and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner.

Section 383.1010 Incorporation by Reference of 49 CFR 383

a) The Department incorporates by reference the following sections of 49 CFR 383 as those sections of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) were in effect on October 1, 2006, subject only to the exceptions in subsection (c) of this Section. No later amendments to or editions of those sections of 49 CFR 383 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safety.html.

383.1 Purpose and scope
383.3 Applicability
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

383.5 Definitions
383.23 Commercial driver's license
383.35 Notification of previous employment
383.37 Employer responsibilities
383.51 Disqualification of drivers
383.53 Penalties

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) As provided in 49 CFR 383.3(d), the following applies for purposes of this Part:

The Uniform Commercial Driver's License Act provides exceptions under 625 ILCS 5/6-507(c) for operators of certain vehicles in Illinois (i.e., farmers). Those exceptions apply for purposes of this Part.
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Safety Fitness Procedures

2) **Code Citation:** 92 Ill. Adm. Code 385

3) **Section Numbers:**
   - 385.1010 Amend
   - 385.1020 Amend
   - 385.2000 Amend

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

5) **Effective Date of Amendments:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2474; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 385.2000(a), the Department's website address has been corrected.

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

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendments:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 385, subpart E, to the October 1, 2006 edition of 49
DEPARTMENT OF TRANSPORTATION

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CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal Motor Carrier Safety Regulations referenced in Section 385.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

At Section 385.1010, the Department updated CFR citations to maintain consistency with the federal regulations. The definition of "Pipeline and Hazardous Materials Safety Administration" was updated to reflect the proper citation to the October 1, 2006 edition of 49 CFR.

Section 385.1020 was amended to remove the service procedures for out-of-service orders. Those service procedures were replaced with a cross reference to new out-of-service procedures that were simultaneously proposed under 92 Ill. Adm. Code 386.1020. The new out-of-service procedures in Part 386 are applicable to both Part 385 and Part 386.

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

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

217/785-1181

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

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

PART 385
SAFETY FITNESS PROCEDURES

SUBPART A: GENERAL REQUIREMENTS

Section
385.1000 Purpose
385.1010 Definitions
385.1020 Unsatisfactory Rated Motor Carriers

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS

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

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


SUBPART A: GENERAL REQUIREMENTS

Section 385.1010 Definitions

As used in this Part:

DEPARTMENT OF TRANSPORTATION

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

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

"Department" means the Illinois Department of Transportation.

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

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

"Pipeline and Hazardous Materials Safety Administration" or "PHMSA" means the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. (49 CFR 171.8, October 1, 2006) within USDOT (formerly known as the Research and Special Programs Administration). (70 FR 8299, February 18, 2005)

"Safety Management Controls" means the system, policies, programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations, that ensure the safe movement of products and passengers through the transportation system, and that reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (49 CFR 385.3, October 1, 2006)
"Safety Permit" means a document issued by the FMCSA that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. (49 CFR 385.402, October 1, 2006)

"Safety Ratings" means:

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

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

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

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

(Source: Amended at 32 Ill. Reg. 10374, effective June 25, 2008)

Section 385.1020 Unsatisfactory Rated Motor Carriers

a) Upon written notification from the FMCSA to a motor carrier that it has received a final "unsatisfactory" rating by the FMCSA under 49 CFR 385, that motor carrier shall not operate a commercial motor vehicle listed in Section 385.1000 in Illinois.

b) When a carrier subject to the prohibition in Section 385.1000 is known to operate a commercial motor vehicle in Illinois, the Department will issue an order placing those operations out-of-service in Illinois. The order will be served as prescribed under 92 Ill. Adm. Code 386.1020 hand-delivered to an Illinois office, if known to
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

the Department, of the carrier and a copy served by certified mail return receipt requested on the carrier.

c) Any motor carrier placed out-of-service by the Department pursuant to subsection (b) of this Section may appeal that order to the Secretary, who will investigate the matter.

1) Appeals shall be filed in writing with the Secretary no more than 20 days after the out-of-service order is served as prescribed under 92 Ill. Adm. Code 386.1020 by hand delivery or certified mail return receipt requested on the carrier, whichever date is earlier. The appeal shall contain the reason for the appeal and a contact person's name, address and telephone number.

2) The Secretary's designee will appoint a Department employee to investigate every appeal submitted to the Department in accordance with this Part. The operations declared out-of-service shall remain out-of-service in Illinois during the duration of the investigation.

3) The Department's investigation will be concluded within 30 days after the receipt of the appeal by the Department.

4) Within the 30 day investigative period, the Secretary will issue written notification to the petitioner indicating the Department's determination as to the correctness or incorrectness of the out-of-service order remaining in effect.

5) The Department's written notification, served by certified mail return receipt requested, will include a statement of the facts relied upon and issues decided by the Department in making its determination. The Department's determination is considered administratively final.

d) Any motor carrier whose safety rating of "unsatisfactory" has become final under 49 CFR 385, that has been ordered out-of-service in Illinois by the Department and that has exhausted the appeal procedure or not timely filed an appeal under subsection (c) of this Section and that then willfully operates a commercial motor vehicle in Illinois described in Section 385.1000 will be referred by the Department to a State's Attorney or the Attorney General for prosecution of a Class 3 felony.
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

e) Any person who willfully permits a motor carrier to operate a commercial motor vehicle in Illinois as described in subsection (d) of this Section will be referred by the Department to a State's Attorney or Attorney General for prosecution of a Class 3 felony.

f) The Department will rescind its out-of-service order issued under this Section within five business days after being notified that the FMCSA has rescinded the "unsatisfactory" rating or will not assign a final "unsatisfactory" rating to the motor carrier. After verification of the rescission from the FMCSA, written notification of the rescission will be sent within that time period by certified mail to the motor carrier.

(Source: Amended at 32 Ill. Reg. 10374, effective June 25, 2008)

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS

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

a) The Department incorporates by reference 49 CFR 385, subpart E, as that subpart of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, 397) was in effect on October 1, 2006, subject only to the exceptions in subsection (b) of this Section. No later amendments to or additions of 49 CFR 385, subpart E, are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) The following interpretations of 49 CFR 385, subpart E, shall apply for purposes of this Subpart:

1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 385.

2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Motor Carrier Safety Regulations.

(Source: Amended at 32 Ill. Reg. 10374, effective June 25, 2008)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Procedures and Enforcement

2) **Code Citation:** 92 Ill. Adm. Code 386

3) **Section Numbers:**

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Adopted Action</th>
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<tbody>
<tr>
<td>386.1010</td>
<td>Amend</td>
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<tr>
<td>386.1020</td>
<td>Amend</td>
</tr>
<tr>
<td>386.1035</td>
<td>New Section</td>
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<tr>
<td>386.1110</td>
<td>Amend</td>
</tr>
<tr>
<td>386.1300</td>
<td>Amend</td>
</tr>
<tr>
<td>386.1310</td>
<td>Amend</td>
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</tbody>
</table>

4) **Statutory Authority:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch.18B] and Section 3-704(b) of the Illinois Vehicle Code [625 ILCS 5/3-704(b)]; and authorized by Title IV – Motor Carrier Safety Reauthorization Act of 2005, Section 4132 of Subtitle A – Commercial Motor Vehicle Safety, of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59)

5) **Effective Date of Amendments:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** Yes

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2483; February 15, 2008

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 386.1035(a), the Department corrected its website address by changing "regulations" to "safety".

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes
DEPARTMENT OF TRANSPORTATION
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13) Will these amendments replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice, and pursuant to section 18b-105(b) of the Illinois Motor Carrier Safety Law [625 ILCS 5/18b-105(b)], the Department has added a new Section to Part 386, at Section 386.1035, that incorporates by reference 49 CFR 386, appendix B, as of October 1, 2006.

At Section 386.1010, the Department amended the definition of "public utility" to correspond to the definition of "utility service vehicle" that was added at 92 Ill. Adm. Code 390.1020.

At Section 386.1020, the Department amended the procedures the Department will follow when serving motor carriers with orders, notices, and warning letters. These procedures are nearly verbatim the new federal procedures found at 49 CFR 386.6. This adopted amendment will allow the Department, just as the Federal Motor Carrier Safety Administration does, to serve documents by: personal (hand) delivery; commercial mail delivery; U.S. mail; and, upon prior written consent of the carrier, by facsimile. When service is made by facsimile, a copy will also be served by any other method previously mentioned. If possible, a certificate of service will also accompany all documents served. When a carrier refuses to accept delivery of a document, and no certificate of service is provided, the date shown on the postmark will serve as proof of service. The mailing date shown by the other methods previously mentioned will also serve as proof of service if there is no certificate of service or postmark.

At Section 386.1110, Maximum Penalties, the Department has updated language to correspond to the incorporation by reference of 49 CFR 386, appendix B. Public Act 94-519, effective August 10, 2005, amended section 18b-107 of the Illinois Motor Carrier Safety Law to authorize the Department to follow the federal penalty schedule under 49 CFR 386, appendix B, when assessing monetary penalties against carriers who commit any act that is in violation of the Illinois Motor Carrier Safety Regulations.

Finally, at Sections 386.1300 and 386.1310, the Department amended Subpart C, Public Utility Exemptions, to exempt operators of utility service vehicles, as defined in 92 Ill. Adm. Code 390.1020, from the hours of service requirements in 92 Ill. Adm. Code 395. The Department amended these Sections pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Title IV -
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Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59) (the Act) that was signed by President Bush in August 2005. The Act exempts operators of interstate public utility service vehicles from the provisions of 49 CFR 395, Hours of Service of Drivers. The Department will provide the same exemption for operators of intrastate public utility service vehicles upon adoption of this rulemaking. Finally, the Department has amended Section 386.1300 to clarify that Subpart C of this Part is only applicable to vehicles that are not CDL-regulated. However, pursuant to section 4132 of the Act, CDL-regulated vehicles that meet the definition of utility service vehicle are not subject to 92 Ill. Adm. Code 395. As stated in Section 386.1310(b), Subpart C of this Part does not include an exception to 92 Ill. Adm. Code 391.

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

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

217/785-1181

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

NOTICE OF ADOPTED AMENDMENTS

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

PART 386
PROCEDURES AND ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: ENFORCEMENT

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

SUBPART C: PUBLIC UTILITY EXEMPTIONS
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

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


SUBPART A: GENERAL PROVISIONS

Section 386.1010 Definitions

As used in this Part:

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

"Department" means the Illinois Department of Transportation.

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

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

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

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

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

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

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

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. 10382, effective June 25, 2008)

Section 386.1020 Service

a) General
All documents must be served upon the party or the party's designated agent for service of process. (See 49 CFR 386.6(a).)

b) Type of Service
The Department will serve documents by personal (hand) delivery utilizing governmental or commercial entities, U.S. mail, commercial mail delivery, and, upon prior written consent of the parties, facsimile. Written consent for facsimile service must specify the facsimile number where service will be accepted. When service is made by facsimile, a copy will also be served by any other method permitted by this Section. Facsimile service occurs when transmission is complete. (See 49 CFR 386.6(b).)

c) Certificate of Service
A certificate of service will accompany all documents served in a proceeding under this Part, including an out-of-service order, as prescribed in 92 Ill. Adm. Code 385. The certificate must show the date and manner of service; must be signed by the person making service; and must list the persons being served. (See 49 CFR 386.6(c).)

d) Date of Service
A document will be considered served on the date of personal delivery. If the document is mailed, it will be considered served on the mailing date shown on the certificate of service; or on the date shown on the postmark if there is no certificate of service; or on the mailing date shown by other evidence if there is no certificate of service or postmark. (See 49 CFR 386.6(d).)

e) Valid Service
A properly addressed document, sent in accordance with this Section, that was returned, unclaimed, or refused, is deemed to have been served in accordance with this Section. The service will be considered valid as of the date and the time the document was mailed, or the date personal delivery of the document was refused. Service by delivery after 5 p.m. is deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday. (See 49 CFR 386.6(e).)

f) Presumption of Service
There shall be a presumption of service if the document is served where a party or a person customarily receives mail or at the address designated in the entry of appearance. (49 CFR 386.6(f))
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a) Each order, notice, or warning letter required to be served under this Part shall be served personally or by certified mail.

b) Service upon a person’s authorized representative constitutes service upon that person.

c) Service by certified mail is complete upon mailing. An official United States Postal Service receipt from the certified mailing constitutes prima facie evidence of service.

(Source: Amended at 32 Ill. Reg. 10382, effective June 25, 2008)

Section 386.1035 Incorporation by Reference

a) The Department incorporates by reference 49 CFR 386, appendix B – Penalty Schedule; Violations and Maximum Monetary Penalties as that appendix to 49 CFR 386 was in effect on October 1, 2006, subject only to the exceptions in subsection (b) of this Section. No later amendments to or additions of 49 CFR 386, appendix B are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The Federal Motor Carrier Safety Regulations (FMCSR) are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safety.html.

b) The following interpretations of 49 CFR 386, appendix B shall apply for purposes of this Part:

1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 386.

2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.

3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Motor Carrier Safety Regulations (IMCSR).
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(Source: Added at 32 Ill. Reg. 10382, effective June 25, 2008)

SUBPART B: ENFORCEMENT

Section 386.1110 Maximum Penalties

A person who commits an act that is a violation of any of the IMCSR is liable for a civil penalty as prescribed by 49 CFR 386, appendix B – Penalty Schedule; Violations and Maximum Monetary Penalties. (See Section 18b-107 of the Law.) of not more than $5,000 for each violation. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(Source: Amended at 32 Ill. Reg. 10382, effective June 25, 2008)

SUBPART C: PUBLIC UTILITY EXEMPTIONS

Section 386.1300 Purpose and Scope

a) This Subpart C applies to vehicles that are not subject to 92 Ill. Adm. Code 383 (i.e., operators required to obtain a commercial driver's license cannot qualify for this public utility exemption).

b) Pursuant to the Motor Carrier Safety Reauthorization Act of 2005, drivers that operate utility service vehicles, as defined in 92 Ill. Adm. Code 390.1020, are exempt from the provisions of 92 Ill. Adm. Code 395. (See 92 Ill. Adm. Code 395.1000(b).) Drivers of utility service vehicles seeking relief from the hours of service requirements in 92 Ill. Adm. Code 395 are not required to follow the procedures contained in this Subpart C. (See the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Title IV – Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).)

c) This Subpart C prescribes procedures by which a public utility, as defined in Section 386.1010 and that is not subject to the federal Motor Carrier Safety Regulations, may obtain administrative relief from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 the Illinois Motor Carrier Safety Regulations (IMCSR) in the form of an exemption. Exemptions provided for in this Subpart C will be granted only when they insure levels of safety consistent with the public interest, with the Illinois Motor Carrier Safety Regulations, and with the tolerance guidelines established in 49 CFR 350, Appendix C.
Section 386.1310 Exemptions for a Public Utility

a) Only those intrastate public utility commercial motor vehicles and their drivers that meet the requirements of this Subpart C are eligible for an exemption.

b) Upon application, public utility commercial motor vehicles operated solely in intrastate commerce as defined in 92 Ill. Adm. Code 390.1020 with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 26,000 pounds or less and that are not either designed to transport more than 15 passengers, including the driver, or used to transport hazardous materials in an amount requiring placarding, will be considered for an exemption from the Illinois Motor Carrier Safety Regulations with the exception of 92 Ill. Adm. Code 391 – Qualification of Drivers.

c) Upon application, drivers of solely intrastate public utility commercial motor vehicles having a GVWR or GCWR greater than 26,000 pounds will be considered for an exemption from some provisions of 92 Ill. Adm. Code 395 – Hours of Service of Drivers. The following subsections establish the requirements in lieu of 92 Ill. Adm. Code 395 for those drivers:

1) Expansion of the 10 hour driving rule limit to a 12 hour driving rule limit;

2) Increase the combination of driving time and on-duty but not driving time from 15 hours to 16 hours; and

3) Increase the current 60 hour rule to 70 hours in seven consecutive days and increase the 70 hour rule to 80 hours in eight consecutive days.

(Source: Amended at 32 Ill. Reg. 10382, effective June 25, 2008)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Minimum Levels of Financial Responsibility for Motor Carriers

2) **Code Citation**: 92 Ill. Adm. Code 387

3) **Section Numbers**: Adopted Action:
   - 387.1050    Amend
   - 387.2000    Amend

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

5) **Effective Date of Amendments**: June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: 32 Ill. Reg. 2494; February 15, 2008

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

11) **Differences between proposal and final version**: Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally, at Section 387.2000(a), the Department has corrected the web site address.

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

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendments**: By this Notice, the Department has updated the incorporation by reference of 49 CFR 387 to the October 1, 2006 edition of 49 CFR. The Department has also added Parts 382, 383, and appendix B of Part 386 to the list of
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Federal Motor Carrier Safety Regulations referenced in Section 387.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations. The Department has updated two CFR citations in Section 387.1050.

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

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

217/785-1181

The full text of the Adopted Amendments begins on the next page:
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NOTICE OF ADOPTED AMENDMENTS

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

PART 387
MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

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

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


Section 387.1050 Applicability

a) This Part applies to for-hire motor carriers operating motor vehicles transporting property in interstate commerce.

b) This Part applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate or intrastate commerce.

c) Exceptions:

1) This Part does not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of a Division 1.1, 1.2, or 1.3 material, any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A, or to a highway route controlled quantity of a Class 7 material as it is defined in 49 CFR 173.403, in interstate commerce.

2) This Part does not apply to the transportation of non-bulk oil or non-bulk hazardous materials, substances, or wastes in intrastate commerce, except
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that this Part does apply to the transportation of a highway route controlled quantity of a Class 7 material as defined in 49 CFR 173.403, in intrastate commerce. (49 CFR 387.3, October 1, 2006)

d) This Part applies to for-hire motor carriers transporting passengers in interstate commerce only.

e) Exceptions. This Part does not apply to:

1) An interstate motor vehicle transporting only school children and teachers to or from school;

2) An interstate motor vehicle providing taxicab service and having a seating capacity of fewer than 7 passengers and not operated on a regular route or between specified points;

3) An interstate motor vehicle carrying fewer than 16 individuals in a single daily round trip to commute to and from work; and

4) An interstate motor vehicle operated by a motor carrier under contract providing transportation of preprimary, primary, and secondary students for extracurricular trips organized, sponsored, and paid for by a school district. (49 CFR 387.27, October 1, 2006)

(Source: Amended at 32 Ill. Reg. 10392, effective June 25, 2008)

Section 387.2000 Incorporation by Reference of 49 CFR 387

a) The Department incorporates by reference 49 CFR 387 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006. No later amendments to or editions of 49 CFR 387 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217) 785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safety_regulations.html.
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b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

(Source: Amended at 32 Ill. Reg. 10392, effective June 25, 2008)
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1) **Heading of the Part:** Motor Carrier Safety Regulations: General

2) **Code Citation:** 92 Ill. Adm. Code 390

3) **Section Numbers:**
   - 390.1020 Amend
   - 390.1030 Amend
   - 390.2000 Amend

4) **Statutory Authority:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]; and authorized by Title IV – Motor Carrier Safety Reauthorization Act of 2005, Sections 4130 and 4132 of Subtitle A – Commercial Motor Vehicle Safety, of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA – LU) (P.L. 108-59)

5) **Effective Date of Rulemaking:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2500; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 390.1020, definition of "State", the Department added ""State" also means the State of Illinois". Finally, at Section 340.2000(a), the Department's website address has been corrected.

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

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No
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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice, the Department has updated the incorporation by reference of 49 CFR 390, subpart B, to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal Motor Carrier Safety Regulations referenced in Section 390.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

At Section 390.1020, the Department updated CFR citations to maintain consistency with the federal regulations. The definition of "Driveaway-towaway operation" was updated pursuant to the federal final rulemaking of August 15, 2005, 70 FR 48008, that is included in the October 1, 2006 edition of 49 CFR.

Public Act 94-739, effective May 9, 2006, expanded the hours-of-service exemption for the agricultural community in Illinois. Prior to the Public Act, the exemption (see 92 Ill. Adm. Code 395.2000(c)(5)) applied only to the transportation of fertilizers and chemicals either from the source of the fertilizer or chemical supply (i.e., the dealer) to the farm and back or from one farm to another farm. Now, the Public Act provides relief from the hours-of-service requirements for the transportation of the fertilizer or chemical from manufacturer to dealer. The Public Act also expands the agricultural hours-of-service exemption by adding the definition of agricultural commodities that includes not only agricultural products grown from the earth, but livestock as well.

The following definitions were added at Section 390.1020 pursuant to Public Act 94-739:

"Agricultural commodities";
"Agricultural operations";
"Farm supplies for agricultural purposes"; and
"Livestock".

The definition of "agricultural movements" was deleted pursuant to the Public Act. The new statutory definition of "agricultural operations" replaces the definition of "agricultural movements".

The definition of "distribution point" was added to help clarify the applicability of the Public Act. Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005 (P.L. 108-59) exempts farm supplies being transported within 100 air miles from the distribution point. Since the distribution point is a critical component of enforcement, it is necessary to clarify that the distribution point does not start over again every time the
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A vehicle may stop to drop off a partial load. The Department, therefore, has defined the distribution point for for-hire carriers as the location where the bill of lading (i.e., receipt or list of farm supplies being transported) originates. The distribution point for not-for-hire carriers is the location where the farm supply is originally loaded onto the vehicle. The distribution point for not-for-hire carriers does not start over every time the driver stops the vehicle to drop off a portion of the load.

Additionally, the Public Act expands the agricultural exceptions in 92 Ill. Adm. 395 for hours-of-service requirements, and the new and amended definitions at Section 390.1020 reflect those changes. The Public Act also expands the planting and harvesting season to any time of the year. As a result, the definition of "planting and harvesting season" was amended to include the period January 1 through December 31.

Also, at Section 390.1020, the Department added a definition of "utility service vehicle" (that is being incorporated by reference at 92 Ill. Adm. Code 395.2000) to clarify the exemption for drivers of utility service vehicles from the hours-of-service requirements in 92 Ill. Adm. Code 395 pursuant to Section 4132 of the Motor Carrier Safety Reauthorization Act of 2005.

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

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

217/785-1181

The full text of the Adopted Amendments begins on the next page:
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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390
MOTOR CARRIER SAFETY REGULATIONS: GENERAL

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section
390.1000 Purpose
390.1010 General Applicability
390.1020 Definitions
390.1030 Rules of Construction

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section
390.2000 Incorporation by Reference


The following definitions apply to all Parts in the IMCSR unless a specific Part expressly defines a term differently than what is used below:

"Accident" means:

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

A fatality;

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

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

The term accident does not include:

An occurrence involving only boarding and alighting from a stationary motor vehicle; or

An occurrence involving only the loading or unloading of cargo.

(49 CFR 390.5, October 1, 2006)

"Agricultural commodities" means any agricultural commodity, non-processed food, feed, fiber, or livestock, including insects. (Section 18b-101 of the Law)

"Agricultural operations" means the operation of a motor vehicle or combination of vehicles transporting agricultural commodities or farm supplies for agricultural purposes. (Section 18b-101 of the Law)

"Agricultural movements" means the operation of a motor vehicle or combination
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of vehicles controlled and operated by a private motor carrier of property that is using the vehicle to transport nonhazardous or hazardous agricultural crop production fertilizers or agricultural chemicals from a local source of supply to farm or field, or from one farm or field to another, or from farm or field back to the local source of supply. (Section 1-101.6 of the Illinois Vehicle Code (the Code) [625 ILCS 5/1-101.6])

"Air mile" means a nautical mile, which is equivalent to 6,076 feet or 1,852 meters. Accordingly, 100 air miles are equivalent to 115.08 statute miles or 185.2 kilometers. (Section 18b-101 of the Law)

"Alcohol concentration" or "AC" means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. (49 CFR 390.5, October 1, 2006)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 2006)

"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to, hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (Section 1-108 of the Code)

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, 2006)

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

"Commerce" means trade, commerce or transportation within the State. (Section 1-111.4 of the Code)
"Commercial motor vehicle" or "CMV" means:

Any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight, a gross vehicle weight rating, a gross combination weight, or a gross combination weight rating of 10,001 or more pounds (4,537 or more kilograms); or

The vehicle is used or designed to transport more than 15 passengers, including the driver; or

The vehicle is designed to carry 15 or fewer passengers and is operated by a contract carrier transporting employees in the course of their employment on a highway of this State; or

The vehicle is used or designed to transport between 9 and 15 passengers, including the driver, for direct compensation, if the vehicle is being operated beyond a radius of 75 air miles (86.3 statute miles or 138.9 kilometers) from the driver's normal work reporting location; or

The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act.

This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 of the Code nor implements of husbandry as defined in Section 1-130 of the Code. (Section 18b-101 of the Law)

"Commercial Vehicle Inspections" means:

Level 1 – North American Standard Inspection: An inspection that includes each of the items specified under the North American Uniform Out-of-Service Criteria.

As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours-of-service, seat belt, vehicle inspection report, brake system,
steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield wipers, lighting devices, safe loading, and hazardous material requirements as applicable.

Level 2 – Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours-of-service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securement, low air warning device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 – Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours-of-service, seat belt, and vehicle inspection report.

Level 4 – Special Inspections: Inspections under this heading typically include a one-time examination of a particular item. These examinations are normally made in support of a study or to verify or refute a suspected trend.

Level 5 – Vehicle-Only Inspection: An inspection that includes each of the vehicle inspection items specified under the North American Standard Inspection (Level 1), without a driver present, conducted at any location.


"Commercial Vehicle Safety Alliance" or "CVSA" means the association of state/territory (United States), provincial/territory (Canada), and federal (Mexico) officials responsible for the administration and enforcement of motor carrier safety and hazardous materials laws in the United States, Canada and Mexico working together with the federal governments and industry to improve commercial vehicle safety. (CVSA Operations Manual, January 1996)
"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 2004)

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents. (Section 1-115.05 of the Code)

"Direct assistance" means transportation and other relief services provided by a motor carrier or its drivers incident to the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, 2004)

"Direct compensation" means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services. (Section 18b-101 of the Law)

"Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions:

Damage can be remedied temporarily at the scene of the accident without special tools or parts.
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Tire disablement without other damage even if no spare tire is available.

Headlamp or taillight damage.

Damage to turn signals, horn or windshield wipers that makes them inoperative. (49 CFR 390.5, October 1, 2006)

"Distribution point" means the point, for for-hire motor carriers, where the bill of lading originates for the farm supply being transported. For not-for-hire motor carriers, the distribution point means the original loading point for the farm supply.

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of Table 1 to "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 2006)

"Driveaway-towaway operation" means any operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

Between a vehicle manufacturer's facilities;

Between a vehicle manufacturer and a dealership or purchaser;

Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;

To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in this Section 390.1020) following a crash; or

To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or
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By means of a saddle-mount or tow-bar, a motor vehicle constitutes the commodity being transported and one or more sets of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, 2006)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 2006)

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a state, or their authorized representatives having authority to declare emergencies; by the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other federal, State or local government officials having authority to declare emergencies, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his or her designee; or

A request by a police officer for tow trucks to move wrecked or disabled motor vehicles. (49 CFR 390.5, October 1, 2006)

"Emergency relief" means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, 2006)

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

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 2006)

"Employer" means any person engaged in a business affecting interstate or intrastate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Federal Motor Carrier Safety Administration (FMCSA) in 49 CFR 372, subpart B. The descriptions are printed in appendix F to the Federal Motor Carrier Safety Regulations. A driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 2006)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 USC 13506. "Exempt motor carriers" are subject to the requirements set forth in the Illinois Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 2006)

"Farm machinery" – see definition of "Special agricultural movement equipment" in this Section.
"Farm supplies for agricultural purposes" means products directly related to the growing or harvesting of agricultural commodities and livestock feed at any time of the year. (Section 18b-101 of the Law)

"Farm to market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to or from a farm operated by the farmer; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act [430 ILCS 30]. (Section 1-119.6 of the Code)

"Farm machinery" – see definition of "Special Agricultural Movement Equipment" in this Section.

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is –

- Controlled and operated by a farmer as a private motor carrier of property;
- Being used to transport either –
  - Agricultural products, or
  - Farm machinery, farm supplies, or both, to or from a farm;
- Not being used in the operation of a for-hire motor carrier;
- Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with 49 CFR 177.823; and
- Being used within 150 air-miles of the farmer's farm. (49 CFR 390.5, October 1, 2006)

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock.
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Are owned by that person; or

Are under the direct control of that person. (49 CFR 390.5, October 1, 20062004)

"Fatality" means any injury that results in the death of a person at the time of the motor vehicle accident or within 30 days after the accident. (49 CFR 390.5, October 1, 20062004)

"Federal Motor Carrier Safety Administrator" means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 20062004)

"FMCSA Field Administrator" means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States. (49 CFR 390.5, October 1, 20062004)

"For-hire" means the operation of a vehicle for compensation and subject to federal regulation by the Interstate Commerce Commission or to State regulation by the Illinois Commerce Commission and those vehicles governed by Chapters 8 and 9 under the Code and regulated by the Secretary of State. (Section 1-122.5 of the Code)

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 20062004)

"Gross Combination Weight Rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 20062004)

"Gross Vehicle Weight Rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single motor vehicle. (49 CFR 390.5, October 1, 20062004)

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when
transported in commerce, and that which has been so designated. (49 CFR 390.5, October 1, 2006)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in Appendix A to 49 CFR 172.101, List of Hazardous Substances and Reportable Quantities when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in Appendix A to 49 CFR 172.101. (49 CFR 390.5, October 1, 2006)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, 2006)

"Highway" means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates. (49 CFR 390.5, October 1, 2006)


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

"Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm
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wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds, shall be included hereunder. (Section 1-130 of the Code)

"Interstate commerce" means transportation between two or more states or transportation originating in one state and passing into or through other states for delivery in another state. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois that is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 2006)

"Law" means the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

"Livestock" means cattle, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of the United States Department of Transportation (at his or her sole discretion) that are part of a foundation herd (including producing dairy cattle) or offspring. (Section 18b-101 of the Law)

"Medical Examiner" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. In Illinois, the term includes doctors of medicine, doctors of osteopathy, doctors of chiropractic, physician assistants who have been delegated the performance of medical examinations by his/her supervising physician, and advanced practice nurses who have a written collaborative agreement with a collaborating physician that authorizes him/her to perform physical examinations.

"Motor carrier" means a for-hire motor carrier or a private motor carrier. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the IMCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 2006)

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the
transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 2006)

"Multiple-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. (49 CFR 390.5, October 1, 2006)

"North American Uniform Out-Of-Service Criteria" means a set of guidelines established by the CVSA and recognized by all states, the provinces of Canada, and Mexico as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load out-of-service. The criteria is enforced, in some states, by qualified law enforcement officers of a municipality, county, state or the federal government. In Illinois, only qualified officers of the Illinois State Police and the federal government have authority to enforce the out-of-service criteria.

"Operator" – see driver.

"Other terms" – any other term used in the IMCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the IMCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 2006)

"Out-of-service order" means a declaration by the Illinois State Police or by an authorized enforcement officer of a state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or 92 Ill. Adm. Code 392.2000(d), or compatible laws, or the North American Uniform Out-of-Service Criteria as defined in this Section.

"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns. (Section 18b-101 of the Law)
"Planting and harvesting season" means the period of January 1 through December 31 each year.

"Previous employer" means any USDOT or Department regulated person who employed the driver in the preceding 3 years, including any possible current employer.

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, for purposes of identification under this Subchapter d. The motor carrier must make records required by 49 CFR 382 and 49 CFR 387, as well as Parts 390, 391, 395, 396, and 397 of this Subchapter d, available for inspection at this location within 48 hours (Saturdays, Sundays, and federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration or the Illinois Department of Transportation. (49 CFR 390.5, October 1, 2004)

"Private motor carrier" means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier. (49 CFR 390.5, October 1, 2004)

"Private motor carrier of passengers (business)" means a private motor carrier engaged in the interstate or intrastate transportation of passengers that is provided in the furtherance of a commercial enterprise and is not available to the public at large. (49 CFR 390.5, October 1, 2004)

"Private motor carrier of passengers (nonbusiness)" means a private motor carrier involved in the interstate or intrastate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5, October 1, 2004)

"Radar detector" means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

Transported outside the driver's compartment of the commercial motor
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vehicle. For this purpose, the driver's compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle. (49 CFR 390.5, October 1, 2006)

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 2006)

"Safety permit" means a document issued by the Federal Motor Carrier Safety Administration that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. (49 CFR 385.402, October 1, 2006)

"School bus" means a motor vehicle that meets all of the special requirements for school buses in Sections 12-801, 12-802, 12-803 and 12-805 of the Code and is designed or used to carry more than 10 passengers, including the driver, and is used for transporting preprimary, primary or secondary school students from home to school or from school to home or for intrastate school sanctioned functions.

"School bus operation" means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home and for intrastate school sanctioned functions.

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

"Single-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis. (49 CFR 390.5, October 1, 2006)

"Special agent" – See 49 CFR appendix to subchapter B of chapter III.
"Special agricultural movement equipment" means a vehicle of the second division having a corn sheller, a well driller, hay press, clover huller, feed mixer and unloader or other farm machinery permanently mounted thereon and used solely for transporting the same, farm wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and farm wagon type tank trailers (i.e., nurse tanks) not to exceed 3,000 gallon capacity. Also includes any single unit self-propelled agricultural fertilizer implement, designed for both on and off road use, equipped with flotation tires and otherwise especially adapted for the application of plant food materials or agricultural chemicals. (Section 3-809 of the Code)

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 2006)
"State" also means the State of Illinois.

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer that is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 2006)

"Pole trailer" means any motor vehicle that is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 2006)

"Semitrailer" means any motor vehicle, other than a pole trailer, that is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle. (49 CFR 390.5, October 1, 2006)

"Truck" means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property. (49 CFR 390.5,
October 1, 2006

"Truck tractor" means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 2006)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 2006)

"USDOT" means the United States Department of Transportation.

"Utility service vehicle" means any commercial motor vehicle:

- Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

- While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

- Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility. (49 CFR 395.2, October 1, 2006)

(Source: Amended at 32 Ill. Reg. 10397, effective June 25, 2008)

Section 390.1030  Rules of Construction

a) In the IMCSR unless the context requires otherwise:

1) Words imparting the singular include the plural;

2) Words imparting the plural include the singular; and
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3) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, 2006)

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

(Source: Amended at 32 Ill. Reg. 10397, effective June 25, 2008)

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section 390.2000 Incorporation by Reference

a) 49 CFR 390, subpart B, is hereby incorporated by reference as that subpart of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006, and as amended at 70 FR 49978, August 25, 2005, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, subpart B are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.
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b) The following interpretations of, additions to and deletions from 49 CFR 390, subpart B shall apply for the purposes of this Subpart:

1) 49 CFR 390.9 is deleted and not incorporated.

2) 49 CFR 390.21 applies to the following:
   A) Commercial motor vehicles engaged in interstate commerce; and
   B) Commercial motor vehicles engaged in intrastate commerce if the carrier requires a safety permit as required by 49 CFR 385.403.

3) 49 CFR 390.23(a)(2)(i)(A) is not incorporated and the following substituted therefor:
   An emergency has been declared by a Federal, State, or local government official having authority to declare an emergency, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his or her designee.

4) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 390.

5) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.

6) Any reference to a section in the incorporated material shall be read to refer to that Section in the IMCSR.

7) Any reference to "part 325 of subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards" (49 CFR 325, October 1, 2006).

(Source: Amended at 32 Ill. Reg. 10397, effective June 25, 2008)
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NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Qualification of Drivers

2) **Code Citation:** 92 Ill. Adm. Code 391

3) **Section Number:** 391.2000
   **Adopted Action:** Amend

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

5) **Effective Date of Amendment:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2524; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 391.2000(a), last line, the Department corrected the website address.

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

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 391 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal
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Motor Carrier Safety Regulations referenced in Section 391.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

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

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

217/785-1181

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

NOTICE OF ADOPTED AMENDMENT

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

PART 391
QUALIFICATION OF DRIVERS

Section 391.1000 General
391.2000 Incorporation by Reference of 49 CFR 391

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


Section 391.2000 Incorporation by Reference of 49 CFR 391

a) The Department hereby incorporates 49 CFR 391 by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to
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refer to the appropriate citation in 49 CFR 391.

c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.


2) 49 CFR 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.

3) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations (IMCSR) and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner. (Section 18b-105 of the Law)

4) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to...
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January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

5) 49 CFR 391.43(a) is not incorporated and the following substituted therefor:

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

6) If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

7) 49 CFR 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle in interstate or intrastate transportation if the Division Administrator, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(Source: Amended at 32 Ill. Reg. 10420, effective June 25, 2008)
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NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Driving of Commercial Motor Vehicles

2) **Code Citation**: 92 Ill. Adm. Code 392

3) **Section Number**: 392.2000  
   **Adopted Action**: Amend

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

5) **Effective Date of Amendment**: June 25, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: 32 Ill. Reg. 2530; February 15, 2008

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

11) **Differences between Proposal and Final Version**: Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 392.2000(a), last line, the Department's website address was corrected.

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

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

14) Are there any amendments pending on this Part? No

15) **Summary and Purpose of Amendment**: By this Notice, the Department has updated the incorporation by reference of 49 CFR 392 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal
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Motor Carrier Safety Regulations referenced in Section 392.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

The following summary provides a description of a federal rulemaking that is applicable to this Part, which became effective since October 1, 2004, and that is included in the October 1, 2006 edition of 49 CFR. Therefore, the Department's regulations incorporate changes made by the following Docket:

Docket FMCSA-1997-2364 (70 FR 48008, August 15, 2005) Amended the regulations to include an exception for the obstruction of trailer conspicuity treatments on front end protection devices or header boards. Reflective material on the header board is sometimes obstructed by the height of the cargo being transported, and carriers should not be penalized if this occurs.

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

Ms Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois  62794-9212
217/785-1181

The full text of the Adopted Amendment begins on the next page:
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NOTICE OF ADOPTED AMENDMENT

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

PART 392
DRIVING OF COMMERCIAL MOTOR VEHICLES

Section
392.1000 General
392.2000 Incorporation by Reference of 49 CFR 392

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


Section 392.2000 Incorporation by Reference of 49 CFR 392

a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006. No later amendments to or editions of 49 CFR 392 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.
c) The following addition to 49 CFR 392 shall apply for purposes of this Part.


d) 49 CFR 392.9a (Operating authority) is not incorporated and the following is substituted therefor:

1) Registration required. A motor vehicle providing transportation requiring registration under 49 USC 13902 may not be operated without the required registration or operated beyond the scope of its registration.

2) Penalties. Every motor vehicle providing transportation requiring registration under 49 USC 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 USC 14901.

3) Driver compliance. Upon the issuance of the out-of-service order under subsection (d)(2) of this Section, the driver shall comply immediately with such order.

(Source: Amended at 32 Ill. Reg. 10425, effective June 25, 2008)
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1) **Heading of the Part:** Parts and Accessories Necessary for Safe Operation

2) **Code Citation:** 92 Ill. Adm. Code 393

3) **Section Number:** 393.2000
   **Adopted Action:** Amend

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

5) **Effective Date of Amendment:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2535; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 393.2000(a), last line, the Department's website address has been corrected.

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

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 393 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Motor Carrier Safety Regulations referenced in Section 393.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

The following summaries provide a description of federal rulemakings that are applicable to this Part, which became effective since October 1, 2004, and that are included in the October 1, 2006 edition of 49 CFR. Therefore, the Department's regulations have incorporated changes made by the following Dockets:

Docket FMCSA-1997-2364 (70 FR 48008, August 15, 2005) Amended the regulations to remove obsolete and redundant language; to respond to several petitions for rulemaking; to resolve inconsistencies between 49 CFR 393 and the Federal Motor Vehicle Safety Standards, 49 CFR 571. Generally, this docket makes the regulations more concise, easier to understand and more performance oriented.

Docket FMCSA-2006-21259 (71 FR 35819, June 22, 2006) Amended the final rule of September 27, 2002 (67 FR 61212) concerning protection against shifting and falling cargo for commercial motor vehicles in response to petitions for rulemaking from industry.

At Section 393.2000(c), the Department changed the order of subsections (1) and (2) to put the 49 CFR citations in numerical order.

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

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

217/785-1181

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

NOTICE OF ADOPTED AMENDMENT

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

PART 393
PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section 393.1000 General
393.2000 Incorporation by Reference of 49 CFR 393

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


Section 393.2000 Incorporation by Reference of 49 CFR 393

a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217) 785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to
c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.

1) 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code [625 ILCS 5/3-815(c)] and utilized in intrastate commerce (Section 18b-105(c)(2) of the Law). 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce which were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(1)]).

2) 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce that were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(1)]). 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code [625 ILCS 5/3-815(c)] and utilized in intrastate commerce (Section 18b-105(e)(2) of the Law).


(Source: Amended at 32 Ill. Reg. 10429, effective June 25, 2008)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Hours-of-Service of Drivers

2) **Code Citation:** 92 Ill. Adm. Code 395

3) **Section Numbers:**
   - 395.1000    Amend
   - 395.2000    Amend

4) **Statutory Authority:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]; and authorized by Title IV – Motor Carrier Safety Reauthorization Act of 2005, Sections 4130, 4132 and 4133 of Subtitle A – Commercial Motor Vehicle Safety, of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA – LU) (P.L. 108-59)

5) **Effective Date of Amendments:** June 25, 2008

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2540; February 15, 2008

10) **Has JCAR issued a Statement of Objections to these amendments?** No

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 395.2000(a), last line, the Department's website address has been corrected.

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

13) **Will these amendments replace any emergency amendment currently in effect?** No

14) **Are there any amendments pending on this Part?** No
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

15) **Summary and Purpose of Amendments:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 395 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal Motor Carrier Safety Regulations referenced in Section 395.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

At Section 395.1000(b), the Department added a new requirement that exempts drivers of utility service vehicles (as defined in 92 Ill. Adm. Code 390.1020) from this Part. This requirement was added pursuant to the Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59) (the Act) that was signed into law by President Bush in August of 2005. The Department also amended the Agency Note at the end of the Part to clarify the public utility exemption found under 92 Ill. Adm. Code 386, Subpart C.

Additionally, the Department, in accordance with the Act, added a new provision at Section 395.2000(c)(3) that requires operators of commercial motor vehicles providing transportation of property or passengers to or from a theatrical or television motion picture production site located within 100 air miles of the operator's work reporting location to comply with the hours-of-service requirements that were in effect on April 27, 2003. The requirements that were in effect on April 27, 2003 are identical to the requirements currently found in 49 CFR 395.5 that were added at Section 395.2000(c)(3).

Finally, at Section 395.2000(c)(5), the Department amended the agricultural exceptions for hours-of-service requirements pursuant to Public Act 94-739, effective May 9, 2006. Part 395 does not apply to agricultural operations as defined in 92 Ill. Adm. Code 390.1020 that are engaged in intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity (as defined in 92 Ill. Adm. Code 390.1020) or the distribution point (as defined in 92 Ill. Adm. Code 390.1020) for farm supplies used for agricultural purposes (also defined in 92 Ill. Adm. Code 390.1020). (See Section 18b-105(c)(6) of the Law, as amended by Public Act 94-739, effective May 9, 2006, and Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005.)

16) **Information and questions regarding these adopted amendments shall be directed to:**
Ms Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
217/785-1181

The full text of the Adopted Amendments begins on the next page:
PART 395  
HOURS-OF-SERVICE OF DRIVERS

Section 395.1000  General

a) This Part prescribes the hours-of-service requirements for drivers of commercial motor vehicles in Illinois.

b) This Part does not apply to drivers of utility service vehicles as defined in 92 Ill. Adm. Code 390.1020. (See Section 4132 of the Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).)
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 10433, effective June 25, 2008)

Section 395.2000   Incorporation by Reference of 49 CFR 395

a) "Hours-of-Service of Drivers" (49 CFR 395) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006, and as amended at 70 FR 49978, August 25, 2005 subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.

1) 49 CFR 395.1(h) and 395.1(i) are deleted and not incorporated.

2) 49 CFR 395.1(e)(1) as it applies to intrastate carriers is amended to establish that drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status. (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])

3) 49 CFR 395.5 shall apply to any operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of the operator. (See Section 4133 of the Motor Carrier Safety Reauthorization Act of 2005.)

4) 49 CFR 395.13 is not incorporated and the following substituted therefor:

A) Authority to declare drivers out-of-service due to any violation of
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, 3, 4 or 5 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(43)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.

B) Out-of-Service Criteria

i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.

ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.

iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

C) Responsibilities of motor carriers

i) No motor carrier shall:

Require or permit a driver who has been declared out-of-service to operate a commercial motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395.
DEPARTMENT OF TRANSPORTATION

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

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

D) Responsibilities of the Driver:

i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.

ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section.

iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.

iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of commercial motor vehicles.
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

54) **Part 395 shall not apply to agricultural operations as defined in 92 Ill. Adm. Code 390.1020** movements that are engaged in intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point (see definitions in 92 Ill. Adm. Code 390.1020) for farm supplies used for agricultural purposes (also defined in 92 Ill. Adm. Code 390.1020) during planting and harvesting season as defined in 92 Ill. Adm. Code 390.1020. **(See Section 18b-105(c)(6) of the Law and Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005.)**

65) **Part 395 shall not apply to all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020** that is engaged in intrastate commerce. **(Section 18b-105(c)(6) of the Law)**

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

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

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

(Source: Amended at 32 Ill. Reg. 10433, effective June 25, 2008)
DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Inspection, Repair and Maintenance

2) **Code Citation:** 92 Ill. Adm. Code 396

3) **Section Number:** 396.2000  
   **Adopted Action:** Amend

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

5) **Effective Date of Amendment:** June 25, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2548; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 396.2000(a), last line, the Department's web site address has been corrected.

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

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

14) Are there any amendments pending on this Part? No

15) **Summary and Purpose of Amendment:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 396 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Motor Carrier Safety Regulations referenced in Section 396.2000(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

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

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

217/785-1181

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

NOTICE OF ADOPTED AMENDMENT

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

PART 396
INSPECTION, REPAIR AND MAINTENANCE

Section
396.1000 General
396.2000 Incorporation by Reference of 49 CFR 396
396.2010 Inspection of Vehicles in Operation

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


Section 396.2000 Incorporation by Reference of 49 CFR 396

a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2006, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at http://www.dot.il.gov/safetyregulations.html.
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b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.

1) 49 CFR 396.9 is deleted and not incorporated.

2) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by 49 CFR 396.17.

(Source: Amended at 32 Ill. Reg. 10440, effective June 25, 2008)
1) **Heading of the Part:** Transportation of Hazardous Materials; Driving and Parking

2) **Code Citation:** 92 Ill. Adm. Code 397

3) **Section Number:** 397.1020       **Adopted Action:** Amend

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

5) **Effective Date of Amendment:** June 25, 2008

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 amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** 32 Ill. Reg. 2553; February 15, 2008

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

11) **Differences between proposal and final version:** Several non-substantive grammatical changes were made in agreement with JCAR. Additionally, at Section 397.1020(a), last line, the Department corrected the website address.

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

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** By this Notice, the Department has updated the incorporation by reference of 49 CFR 397 to the October 1, 2006 edition of 49 CFR. The Department also added Parts 382, 383, and appendix B of Part 386 to the list of Federal
DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Motor Carrier Safety Regulations referenced in Section 397.1020(a) since they are applicable to the Illinois Motor Carrier Safety Regulations.

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

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

217/785-1181

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

NOTICE OF ADOPTED AMENDMENT

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

PART 397
TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING

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

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


Section 397.1020  Incorporation By Reference of 49 CFR 397

a) The Department incorporates "Transportation of Hazardous Materials; Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396; and 397) was in effect on October 1, 2006, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at http://ecfr.gpoaccess.gov. The Division of Traffic Safety's rules are available on the Department's website at

b) 

c) 


b) 49 CFR 397.1 is deleted and not incorporated.

c) 49 CFR 397.2 is deleted and not incorporated.

d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

e) The following addition to 49 CFR 397 shall apply for purposes of this Part.


(Source: Amended at 32 Ill. Reg. 10444, effective June 25, 2008)
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part**: Professional Boxing Act

2) **Code Citation**: 68 Ill. Adm. Code 1370

3) **Section Numbers**:  
   - 1370.305 Amendment  
   - 1370.310 Amendment  
   - 1370.315 Repealed  
   - 1370.340 Amendment  
   - 1370.400 New Section  
   - 1370.405 New Section  
   - 1370.410 New Section  
   - 1370.415 New Section  
   - 1370.417 New Section  
   - 1370.420 New Section  
   - 1370.430 New Section  
   - 1370.440 New Section  
   - 1370.450 New Section  
   - 1370.460 New Section  
   - 1370.470 New Section

4) **Statutory Authority**: Professional Boxing Act [225 ILCS 105]

5) **Effective Date of Amendments**: June 27, 2008

6) **If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire**: These emergency amendments will expire at the end of the 150-day period, or upon adoption of permanent rules in 68 Ill. Adm. Code 1371, whichever comes first.

7) **Date Filed in Index Department**: June 27, 2008

8) **A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Reason for Emergency**: Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests and the removal of both the prohibition on ultimate fighting exhibitions and the exemption that allowed some martial arts/mixed martial arts
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

(MA/MMA) contests to be held. Although the Department is proposing a comprehensive overhaul of the administrative rules for the Act, emergency amendments are necessary to allow events to be held in the interim because of the removal of the exemption previously contained in Section 6 of the Act.

10) **A Complete Description of the Subjects and Issues Involved:** Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests. As a result of these changes and the need for a general overhaul and updating of the rules, the existing Part 1370 is being repealed and replaced with a new Part 1371. However, since the statutory changes of PA 95-593 have taken effect and contests are being planned, the Department is implementing these emergency amendments to the existing Part 1370 to allow those involved with professional MA/MMA to begin the licensure process while still protecting the public health, safety and welfare. The provisions of the new Part 1371 that apply only to MA/MMA activities are included here under Subpart E; references are also made to the existing boxing rules for areas of common requirements between boxing and MA/MMA (i.e. promoters, managers, permits, etc.). This emergency rulemaking will provide specifics that include safety and equipment requirements, licensure provisions relating to all of the participants (contestants, promoters, managers, judges, referees, and seconds, among others), and how the bouts are conducted. The fees included in Section 1370.305 have been increased, in part due to the reduction in the statutes of the gross receipts ticket tax paid by the promoters from 10% to 3%, and to reflect the fees paid in other states. Obsolete language, including the existing prohibition on ultimate fighting exhibitions in Section 1370.315, is also being removed and other technical changes are included.

11) **Are there any proposed amendments to this Part pending:** Yes

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

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<td>1370.370</td>
<td>Repealed</td>
<td>32 Ill. Reg. 9457; July 7, 2008</td>
</tr>
</tbody>
</table>

12) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.

13) Information and questions regarding these emergency amendments 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

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

The full text of the Emergency Amendments begins on the next page:
NOTICE OF EMERGENCY AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1370
PROFESSIONAL BOXING ACT

SUBPART A: STATUTORY AUTHORITY

Section
1370.10 Statutory Authority (Repealed)

SUBPART B: BOXING

Section
1370.15 Application for a License as a Boxing Promoter
1370.20 Application for a License as a Boxing Contestant, Second, Timekeeper, Referee, Judge, Matchmaker or Manager
1370.25 Application for a Permit to Conduct a Boxing Contest
1370.26 Seconds
1370.27 Timekeepers
1370.28 Referees
1370.29 Boxers
1370.30 Structure of Ring
1370.40 Classes and Weights of Boxers
1370.50 Fight Preparations (Repealed)
1370.60 Ring Equipment (Repealed)
1370.70 Conduct of a Contest (Repealed)
1370.80 Scoring
1370.90 Knockdowns
1370.100 Foul(s), Injuries, Loss of Mouthpiece
1370.105 Ringside Physician and Paramedics
1370.110 Drugs and Stimulants
1370.120 Conduct of Ring Officials
1370.140 State of Illinois Boxing Championships
1370.160 Manager – Boxer Contracts

SUBPART C: WRESTLING
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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Section
1370.200 Application for a License as a Wrestling Promoter (Repealed)
1370.205 Application for a License as a Wrestling Referee or Timekeeper (Repealed)
1370.206 Application for a Permit to Conduct a Wrestling Exhibition (Repealed)
1370.207 General Wrestling Exhibition Requirements (Repealed)
1370.210 Structure of Ring (Repealed)
1370.220 Preparations for an Exhibition (Repealed)
1370.230 Conduct of an Exhibition (Repealed)
1370.240 Length of an Exhibition (Repealed)
1370.250 Scoring (Repealed)
1370.260 Holds (Repealed)
1370.270 Wrestler Out of Ring (Repealed)
1370.280 Disqualification (Repealed)
1370.290 Australian Tag Team Wrestling (Repealed)
1370.300 Medical Supervision (Repealed)

SUBPART D: GENERAL PROVISIONS

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1370.305 Fees
1370.310 Definitions
1370.315 Ultimate Fighting Exhibition (Repealed)
1370.320 Applications for Permits (Repealed)
1370.325 Requirements for Closed Circuit Telecasts (Repealed)
1370.330 Compensation (Repealed)
1370.340 Payment of Taxes
1370.350 Public Safety
1370.360 Renewals
1370.370 Granting Variances

SUBPART E: MARTIAL ARTS OR MIXED MARTIAL ARTS

Section
1370.400 Application for a License as a Contestant
1370.405 Application for a License as a Contestant (Repealed)
NOTICE OF EMERGENCY AMENDMENTS

1370.405 Application for a License as a Promoter, Matchmaker, Manager or Second
EMERGENCY
1370.410 Application for a License as a Timekeeper, Referee, Judge
EMERGENCY
1370.415 Application for a Permit to Conduct a Contest
EMERGENCY
1370.417 Physicians, Paramedics, Promoters, Seconds, Timekeepers, Referees, and Scoring
EMERGENCY
1370.420 Classes and Weights of Contestants
EMERGENCY
1370.430 Attire and Equipment for Contestants
EMERGENCY
1370.440 Structure of the Fighting Area for Contests
EMERGENCY
1370.450 Intentional and Accidental Fouls and Injuries
EMERGENCY
1370.460 Rounds
EMERGENCY
1370.470 Types of Bout Results
EMERGENCY

AUTHORITY: Implementing the Professional Boxing Act [225 ILCS 105] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

Administrative Rules; emergency amendment at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days.

SUBPART D: GENERAL PROVISIONS

Section 1370.305 Fees

EMERGENCY

The following fees shall be paid to the Department and are not refundable:

a) Application Fees

1) The application fee for a license as a boxing promoter is $1000.

2) The application fee for a license as a boxing referee is $300.

3) The application fee for a license as a boxing matchmaker is $250.

4) The application fee for a license as a boxing manager is $200.

5) The application fee for a license as a boxing contestant is $100.

6) The application fee for a license as a boxing timekeeper is $150.

7) The application fee for a license as a boxing judge is $100.

8) The application fee for a license as a boxing second is $50.

b) Renewal Fees

1) The renewal fee for a boxing promoter license shall be calculated at the rate of $500 per year.

2) The renewal fee for a boxing referee license shall be calculated at the rate of $150 per year.

3) The renewal fee for a boxing matchmaker license shall be calculated at the rate of $125 per year.
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4) The renewal fee for a boxing manager license shall be calculated at the rate of $100/$50 per year.

5) The renewal fee for a boxing contestant license shall be calculated at the rate of $50/$12.50 per year.

6) The renewal fee for a boxing timekeeper license shall be calculated at the rate of $75/$37.50 per year.

7) The renewal fee for a boxing judge license shall be calculated at the rate of $50/$25 per year.

8) The renewal fee for a boxing second license shall be calculated at the rate of $75/$12.50 per year.

c) General Fees

1) The fees for a permit for a contest are determined by the total number of bouts held per the following fee brackets: fee for a permit for a boxing match is $50.

A) Permit for a contest to be held with 1-6 bouts is $500.

B) Permit for a contest to be held with 7-10 bouts is $750.

C) Permit for a contest to be held with 11 or more bouts is $1000.

D) Permits for State of Illinois Boxing Championships shall be issued without a fee.

In the event that bouts are added to the contest and the total number of bouts exceeds the current permit fee bracket, the promoter will be responsible for paying the difference in permit fees at the weigh-in or within 24 hours of the contest. In the event that bouts are cancelled, there shall be no refund of permit fees.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement certificate of registration for a certificate of registration that has been lost or destroyed, or for the issuance of a certificate of
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registration with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Division records when no duplicate certificate of registration is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

5) The fee for a roster of persons licensed in this State shall be the actual cost of producing the roster.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.310 Definitions

Unless the text indicates otherwise, the following terms shall be defined as indicated:

"Act" means the Professional Boxing Act [225 ILCS 105].

"Athletic event" means professional boxing contests.

"Board" means the State Professional Boxing Board.

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

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

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

"Exhibition" means a show of boxing or sparring in which there is no score or decision.

"Manager" means a person licensed by the Division who is not a
promoter and who, under contract, agreement or other arrangement with any boxer, undertakes to directly or indirectly control or administer the boxing affairs of boxers.

"Physician" means a person licensed by the Department to practice medicine in all of its branches.

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

"Show" means a complete program of boxing or sparring contests or exhibitions.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.315 Ultimate Fighting Exhibition (Repealed) EMERGENCY

a) Pursuant to Section 7.5 of the Act, ultimate fighting exhibitions are prohibited in the State of Illinois.

b) "Ultimate fighting exhibition" means any competition, contest or exhibition that involves any physical combat bout with few or no restrictions on the tactics or techniques used, between two or more individuals who attempt to defeat the opponent by using elbow strikes, kicking, choking, bare knuckles, boxing, wrestling, martial arts techniques or any combination of these techniques or tactics, excluding contests or exhibitions that are authorized by the Act and this Part or exempted by Section 6 of the Act.

c) Any licensee/registrant holding or promoting an ultimate fighting exhibition, or participating in an ultimate fighting exhibition as a promoter, contestant, second, referee, judge, scorer, manager, trainer, announcer, or timekeeper, may be subject to discipline pursuant to Section 16 of the Act.

d) The Department shall enter an order of cease and desist to any individual or entity involved in an ultimate fighting exhibition. If the order is ignored, the Department may send such order to the Attorney General or State's Attorney for civil or criminal enforcement with respect to prohibited exhibitions and/or the Department may file a complaint for imposition of civil penalties for violation of
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e) A person who is guilty of violating this Section is guilty of a Class A
Misdemeanor. On conviction of a second or subsequent offense, the violator shall
be guilty of a Class 4 felony.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27,
2008, for a maximum of 150 days)

Section 1370.340 Payment of Taxes

Pursuant to Section 13 of the Act, a tax of 10% of the first $500,000 of total gross receipts from
the sale of admission tickets to an athletic event shall be paid by the promoter to the Department
to be placed in the general revenue fund. The tax is to be paid on the day of the athletic event.
To facilitate assessment of the taxes required to be paid by the promoter pursuant to Section 13
of the Act, the following procedures shall be followed:

a) Tickets shall be printed in such form as the Division shall prescribe.

b) A sworn inventory of all tickets printed for any show shall be mailed to the
Division by the promoter at least 7 days before the show.

c) The total number of tickets printed shall not exceed the total seating capacity of
the premises where the event is to be held.

d) No tickets of admission to any athletic event shall be sold except tickets declared
on an official ticket inventory. Tax shall be collected on all tickets unaccounted
for immediately after the event.

e) No ticket holder shall pass through the gate without having the ticket separated
from the stub. However, members of the news media assigned to work by their
regular employers, policemen and firemen in uniform and on duty, and persons of
similar vocation are admitted free and are not liable for any tax on admission.

f) All cases where it is determined that a promoter has made an incorrect statement
of gate receipts, has used tickets not appearing on the inventory, or by any
subterfuge purports to reduce the amount of tax due under the law will result in
revocation of license and/or forfeiture of bond.
(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

SUBPART E: MARTIAL ARTS OR MIXED MARTIAL ARTS

Section 1370.400 Application for a License as a Contestant

EMERGENCY

a) First Time Contestant (Amateur contestant desiring to turn professional or initial licensure for professional contestants)
In addition to the application requirements set forth in subsections (c) through (m), the application for licensure by a first time contestant shall be completed on forms provided by the Division and shall include:

1) A government issued photo identification (e.g. driver's license, passport);

2) Proof of age (e.g. driver's license or copy of birth certificate);

3) Social Security Number or tax identification number as appropriate; and

4) For amateur contestants becoming professional contestants, 2 years of martial arts or mixed martial arts experience as an amateur including the total number of bouts and a breakdown of wins and losses. The applicant shall have a minimum of 5 bouts or demonstrate exceptional fighting ability as determined by the Division.

b) Professional Contestant Licensed in Other Jurisdictions
In addition to the application requirements set forth in subsections (f) through (n), (o)(6) through (10), and (p), the application for licensure by a contestant licensed in another jurisdiction shall be completed on forms provided by the Division and shall include:

1) A federal identification card;

2) Proof of active licensure in another jurisdiction;

3) Proof of age (e.g. driver's license or copy of birth certificate); and
4) Social security number or tax identification number as appropriate.

c) A contestant over age 35 who has not competed in a contest within the last 36 months or as otherwise determined by the Division, may be required to appear before the Board to determine their fitness to participate in a contest.

d) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section or fails to pass an examination if such examination is required or otherwise completes training to the satisfaction of the Division.

e) No contestant shall participate in a contest without being licensed.

f) Contestants shall be separately licensed for either boxing or martial arts/mixed martial arts.

g) An applicant for a license shall complete an application provided by the Division which shall include the fee set forth in Section 1370.305.

h) An applicant must be at least 18 years of age.

i) An applicant must show proof of residency.

j) Disclose in writing on a form provided by the Division a complete medical history including any prior or existing medical conditions.

k) All fees involved with medical examinations and/or tests required in this Part shall be the responsibility of the applicant.

l) Licensees shall comply with all applicable federal regulations governing martial arts or mixed martial arts.

m) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if applicant is qualified for licensure.

n) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of
NOTICE OF EMERGENCY AMENDMENTS

information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.

All contestants must submit proof of completion of a physical examination by a physician. The examining physician shall conduct such examinations and tests as necessary to attest to the fitness of the applicant to engage in contests. Each contestant shall provide, to the Division, certified copies of medical tests performed by a laboratory: no later than the scheduled weigh-in before any contest. All physical exam and laboratory results submitted shall be no more than 6 months old from the date of submission. These submissions shall include, but not be limited to:

1) E.K.G. results with the attending physician's findings;

2) Chest x-ray results with the attending physician's findings;

3) CT/MRI brain scan report (without contrast) with the attending physician's findings;

4) A urine, blood or other test indicating no prohibited drugs;

5) A blood test which verifies applicant is free from sexually transmitted diseases;

6) A blood test which verifies the applicant is HIV negative;

7) A blood test which verifies the applicant is Hepatitis B (HBsAg) negative;

8) A blood test which verifies the applicant is Hepatitis C (HCVAb) negative;

9) An eye examination by a physician licensed to practice medicine in all its branches and who specializes in ophthalmology; and
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10) Any other test a physician may require.

p) Physical examinations of female contestants shall also include a pelvic, abdominal and breast exam.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.405 Application for a License as a Promoter, Matchmaker, Manager or Second

EMERGENCY

a) Martial arts/mixed martial arts promoters, matchmakers, managers and seconds shall be separately licensed for either boxing or martial arts/mixed martial arts.

b) An applicant for licensure as a martial arts/mixed martial arts promoter shall adhere to the requirements contained in Section 1370.15.

c) An applicant for licensure as a martial arts/mixed martial arts matchmaker or manager shall adhere to the requirements contained in Section 1370.20(d).

d) An applicant for licensure as a martial arts/mixed martial arts second shall adhere to the requirements contained in Section 1370.20(b).

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.410 Application for a License as a Timekeeper, Referee or Judge

EMERGENCY

a) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section or fails to pass an examination if such examination is required or otherwise completes training to the satisfaction of the Division.

b) All timekeepers, referees or judges shall be licensed.

c) Timekeepers, referees and judges shall be separately licensed for either boxing or martial arts/mixed martial arts.
d) An applicant for a license shall complete an application provided by the Division which shall include the fee set forth in Section 1370.305.

e) An applicant must be at least 18 years of age.

f) All fees involved with medical examinations and/or tests required in this Part shall be the responsibility of the applicant.

g) Licensees shall comply with all applicable federal regulations governing martial arts or mixed martial arts.

h) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if applicant is qualified for licensure.

i) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.

j) The application for licensure as a referee, judge or timekeeper shall be completed on forms provided by the Division and shall include:

1) A government issued photo identification (e.g., driver's license, passport);

2) An eye examination by a physician licensed to practice medicine in all its branches and who specializes in ophthalmology no more than 6 months old from the date of application; and

3) Documented experience in martial arts or mixed martial arts which shall include but not be limited to:
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A) 3 of the last 5 years in amateur or professional martial arts or mixed martial arts contests; or

B) exceptional ability as a referee, judge or timekeeper as determined by the Division; or

C) proof of active licensure in another jurisdiction.

k) In addition to the requirements of this Section, applicants for licensure as a referee shall provide proof of a physical examination by a physician no more than 6 months old from the date of application, to determine whether the applicant is in good physical condition, and has the speed and reflexes necessary for the protection of both fighters, and that he or she has correct or uncorrected visual acuity of at least 20/40 in both eyes.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.415 Application for a Permit to Conduct a Contest

Applications for permits to conduct a MA/MMA contest shall adhere to the requirements contained in Section 1370.25(a), (c) through (e), and (g), and the insurance requirements of Section 8 of the Act.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.417 Physicians, Paramedics, Promoters, Seconds, Timekeepers, Referees, and Scoring

For purposes of this emergency rule, physicians, paramedics, promoters, seconds, timekeepers, referees, and scoring involving a MA/MMA contest shall comply with the following:

a) for physicians and paramedics, Section 1370.105;

b) for promoters, Section 1370.25(f)(3) through (10), and in addition, the promoter shall also provide a fighting area that meets the requirements set forth in Section
NOTICE OF EMERGENCY AMENDMENTS

1370.440:

c) for seconds, Section 1370.26(a) through (c);

d) for timekeepers, Section 1370.27;

e) for referees, Section 1370.28;

f) for scoring, Section 1370.80(a) through (h).

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.420 Classes and Weights of Contestants

EMERGENCY

a) In accordance with generally accepted martial arts or mixed martial arts practices, contestants shall be classified under the following classifications:

<table>
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<th>Weight Class</th>
<th>Weights</th>
<th>Allowances</th>
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<tbody>
<tr>
<td>1) Straw Weight</td>
<td>up to 115 pounds</td>
<td>3 pounds</td>
</tr>
<tr>
<td>2) Flyweight</td>
<td>over 115 to 125</td>
<td>3 pounds</td>
</tr>
<tr>
<td>3) Bantamweight</td>
<td>over 125 to 135</td>
<td>3 pounds</td>
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<tr>
<td>4) Featherweight</td>
<td>over 135 to 145</td>
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<td>5) Lightweight</td>
<td>over 145 to 155</td>
<td>5 pounds</td>
</tr>
<tr>
<td>6) Welterweight</td>
<td>over 155 to 170</td>
<td>5 pounds</td>
</tr>
<tr>
<td>7) Middleweight</td>
<td>over 170 to 185</td>
<td>7 pounds</td>
</tr>
<tr>
<td>8) Light Heavyweight</td>
<td>over 185 to 205</td>
<td>7 pounds</td>
</tr>
<tr>
<td>9) Heavyweight</td>
<td>over 205 to 265</td>
<td>7 pounds</td>
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<tr>
<td>10) Super Heavyweight</td>
<td>over 265 pounds</td>
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b) Any weight division change must be approved by the Division.

c) Contestants shall only fight contestants in their own weight class unless permission is granted by the Division.
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d) At the weigh-in, no contestant may lose more than 3 pounds in less than a 2 hour period. This does not apply to light heavyweight class and above.

e) Allowance in weight classes is the weight difference permitted between contestants in 2 different weight classes.

f) Prior to engaging in a match or exhibition, all contestants shall submit to a weigh-in and a physical examination within 24 hours prior to the contest.

g) The weigh-in shall be conducted at the time and place designated by the Department. The scales must weigh accurately and be capable of weighing up to an appropriate weight, as determined by the Department.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.430 Attire and Equipment for Contestants

**EMERGENCY**

a) Attire and Equipment for Contestants

All contestants shall comply with the following:

1) Contestants shall wear athletic shorts that do not extend below the knee, such as, mixed martial arts shorts, grappling or fighting shorts, boxing shorts or kickboxing shorts, as specified in the bout agreement.

2) Each contestant shall have available for the contest 2 uniforms of contrasting colors, consisting of a body shirt, athletic jersey and shorts. No leotards or other such costume is permissible.

3) Shirts or gis shall not be worn by a contestant during a bout, unless approved by the sanctioning body.

4) Knee pads, elbow pads, chest protectors (for male contestants), shin guards, or footwear and shoes shall not be allowed.

5) All contestants shall wear an individually fitted mouthpiece, which shall be subject to examination and approval by the Division:
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A)  all contestants shall have 2 mouthpieces; and

B)  a round will not begin until both contestants have their respective mouthpieces in place.

6)  Male contestants shall wear a foul-proof groin protector.

7)  Female contestants:
   A)  shall wear a breast protector during the contest with both contestants wearing the same type. The breast protector shall be subject to examination and approval by the Division; and
   B)  may wear a pelvic protector at the option of the contestant.

8)  Taping of hands, wrists and ankles is permitted.

9)  A contestant shall be prohibited from wearing any attire or equipment that contains any metal substance.

10) All equipment and attire are subject to approval of the Division. An inspector or other Division representative may direct a contestant to change any attire or equipment where he or she determines that the attire or equipment gives unfair advantage or is a threat to the health, safety, or welfare of the other contestant or the public.

b)  Bandages/Handwraps
   In all weight classes, seconds must adhere to the following for wrapping hands:

1)  The bandages/handwraps shall consist of soft gauze type cloth that is no more than 15 yards in length and 2 inches in width and held in place by no more than 6 feet of surgeon's tape provided that the tape shall be no more than one inch in width for each hand;

2)  The surgeon's tape shall be placed directly on each hand for protection near the wrist;

3)  Bandages shall be evenly distributed across the hand;
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4)  The binding of surgeon's tape must not be applied within one half inch of the knuckles of the contestant's hand;

5)  Bandages and tape shall be placed on the contestant's hand in the dressing room prior to the bout in the presence of the inspector. The opposing contestant for a title may also witness the bandaging of the opponent's hands. This privilege may be waived; and

6)  The Division official shall approve all bandages and taping prior to gloves being placed on any contestant and after gloves are removed. Under no circumstances are gloves to be placed on the hands of a contestant before approval by the inspector.

c)  Gloves for Contestants

1)  Contestants competing against each other in the same bout shall wear the same sized gloves.

2)  Gloves shall be whole, clean and in good condition. Broken gloves are prohibited during any bout or contest.

3)  Gloves that are padded in the palm or fingertip area are prohibited.

4)  All gloves shall be inspected and approved by the inspector prior to each bout. The inspector or a designee of the Division may inspect gloves at any time.

5)  All gloves shall be furnished by the promoter. For all title bouts gloves shall be new. Promoters must have extra sets of gloves in each size used during the contest, to be used in case gloves are broken or in any way damaged during the course of a bout. Promoters are prohibited from furnishing gloves provided to him or her by a contestant.

6)  Gloves shall be appropriate in size for the contestants and shall be no less than 4 ounces and no more than 6 ounces in weight.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)
Section 1370.440 Structure of the Fighting Area for Contests

EMERGENCY

a) Contests shall be held in a ring, cage or a fenced area.

b) The fighting area shall meet the following requirements:

1) The fighting area:

   A) shall be constructed in a manner that does not pose a substantial risk to the safety or health of any person. The fighting area must be circular or have as many as eight equal sides for a contest. The fighting area shall be no smaller than 16 feet wide and no larger than 32 feet wide within the ropes, cage or fenced area;

   B) shall have a corner with a blue designation and the corner directly across shall have a red designation;

   C) floor shall extend at least 24 inches beyond the ropes or other barrier. The floor must be of a canvas, duck, or similar material that shall be padded with at least a 1 inch layer of foam padding that shall extend over the edge of the platform of the fighting area. Vinyl or other plastic rubberized covering is prohibited. Materials that may gather in lumps or ridges during the bout or contest are prohibited;

   D) platform shall be no more than 4 feet above the floor on which it is standing and must have suitable steps or ramps for use by officials and the contestants;

   E) shall have 5 fighting area ropes, when fighting area ropes are used, not less than 1 inch in diameter and wrapped in soft material. The lowest rope must be no higher than 12 inches from the fighting area floor; and

   F) must not be obstructed by any object, including, without limitation, a triangular border, on any part of the fighting area floor.

2) When fighting area ropes are used, the post:
A) must be made of metal no less 3 inches and not more than 6 inches in diameter, and must be properly padded in a manner approved by the Division; and

B) must be 18 inches away from the fighting area ropes.

3) The fenced or cage specifications for martial arts and mixed martial arts shall meet the following requirements:

A) be made of material that will prevent a contestant of falling out or breaking through the fighting area onto the floor beneath the fighting area or onto spectators. The enclosure may be composed of vinyl-coated chain link fencing or other similar material;

B) any exposed metal on the interior of the fenced or caged area must be covered and padded in a manner approved by the inspector or Division representative. The covering shall not be abrasive to the contestants;

C) any metal parts used to reinforce the fenced or caged area enclosure shall not interfere with the safety of the contestants;

D) the enclosure shall provide 2 separate entries onto the fighting area canvas that are sufficient to allow easy access to the fighting area by officials and emergency personnel. The entrances must be padded or covered so that there is no exposed metal on the interior of the fence or caged area;

E) The enclosure shall not obstruct or limit the supervision and regulation of the bout by the official or Division representatives; and

F) The enclosure shall not inhibit the judging of the bout in any manner.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)
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Section 1370.450  Intentional and Accidental Fouls and Injuries
EMERGENCY

a) The following actions in a bout or contest shall be considered fouls:

1) Butting with the head;

2) Eye gouging of any kind;

3) Biting;

4) Hair pulling;

5) Fishhooking;

6) Groin attacks of any kind;

7) Putting a finger into any orifice or into any cut or laceration of an opponent;

8) Small joint manipulation;

9) Striking to the spine or the back of the head;

10) Striking downward using the point of the elbow;

11) Throat strikes of any kind, including without limitation, grabbing the trachea;

12) Clawing, pinching or twisting the flesh;

13) Grabbing the clavicle;

14) Kicking the head of a grounded opponent;

15) Kneeing the head of a grounded opponent;

16) Stomping a grounded opponent;
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17) Kicking to the kidney with the heel;
18) Spiking an opponent to the canvas on his head or neck;
19) Throwing an opponent out of the ring or fenced area;
20) Holding the shorts or gloves of an opponent;
21) Spitting at an opponent;
22) Engaging in any unsportsmanlike conduct that causes injury to an opponent;
23) Holding the ropes or the fence;
24) Using abusive language in the ring or fenced area;
25) Attacking an opponent during the break;
26) Attacking an opponent who is under the care of the referee;
27) Attacking an opponent after the bell has sounded the end of the period of unarmed combat;
28) Flagrantly disregarding the instructions of the referee;
29) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury;
30) Interference by the corner; and
31) Throwing in the towel during competition.

b) Injuries

1) The referee, at his or her discretion, may request that the physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock shall be stopped until the
examination is completed. The physician may recommend the referee to stop the bout, in which case the referee shall then render the appropriate decision.

2) In the event of serious cuts or injuries, the referee shall summon the physician who shall advise whether the bout should be stopped.

3) A referee may consider the decision of the physician.

4) The referee shall be authorized to determine if injuries were produced by a foul, and if the foul was intentional or accidental.

c) Injuries Sustained by Fair Blows and Fouls:

1) Fair Blows
   If injury is severe enough to terminate a contest, the injured contestant loses by technical knockout (TKO).

2) Fouls
   A) Intentional
      i) if an intentional foul causes an injury, and the injury is severe enough to terminate a bout immediately, the contestant causing the injury shall lose by disqualification.
      
      ii) if an intentional foul causes an injury and the bout is allowed to continue, the referee may notify the Division representative and may deduct points from the contestant who caused the foul.
      
      iii) if an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured contestant shall win by technical decision if he or she is ahead on the scorecards or the bout shall result in a technical draw if the injured contestant is behind or even on the scorecards.
iv) if a contestant injures him or herself while attempting to intentionally foul his or her opponent, the referee shall not take any action in his or her favor, and this injury shall be the same as one produced by a fair blow.

v) if the referee feels that a contestant has conducted him or herself in an unsportsmanlike manner he or she may stop the bout and disqualify the contestant.

B) Accidental

i) if the referee determines either from their observation or that of the physician that the bout may not continue because of the injury from the accidental foul the bout will be declared a no contest if the foul occurred:

- during the first 2 rounds of a non-championship bout; or,

- during the first 3 rounds of a championship bout.

ii) if the referee determines either from their observation or that of the physician that the bout may not continue because of the injury from the accidental foul the bout will be determined by scoring the completed rounds and the round which the referee stops the bout if the foul occurred:

- after the completion of the second round in a non-championship bout; or,

- after the completion of the third round in a championship bout.

iii) A contestant who is hit with an accidental low blow must continue after a reasonable amount of time, but no more than 5 minutes or he or she may lose the bout by technical knockout.
iv) if an injury from an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round in which the referee stops the contest.

3) In assessing fouls, the referee shall weigh the cause as well as the effect. If the referee has seen an unauthorized blow, strike or attack delivered that has a damaging effect, the referee may permit a rest period to the victim not to exceed 5 minutes. During the rest period, seconds may not assist or coach the injured contestant. The offending contestant shall go to a neutral corner and shall not be coached during the period.

4) At the discretion of the referee, the referee may give an official warning or penalty to the offending contestant for the unauthorized blow, strike or attack, and then may give the command to continue after the end of the rest period if the contestant who received the unauthorized blow, strike or attack indicates ability to continue the bout. If the injured contestant refuses to continue after a 5 minute rest period, the opponent shall be named the winner.

5) Repeated unauthorized blows, strikes or attacks shall be penalized with deduction of points from the offending contestant or disqualification of the offending contestant.

6) A contestant cannot be named the winner of a bout as the result of receiving an unauthorized blow, strike or attack, or low blow unless, in the opinion of the referee, the unauthorized blow, strike or attack was delivered deliberately and of enough force to seriously incapacitate the injured contestant so that he or she could not continue the bout. Under this condition, the offender shall be disqualified immediately.

7) A fouled contestant has up to 5 minutes to recuperate.

8) Only a referee can assess a foul and any point deductions. If the referee does not call the foul, judges shall not make that assessment on their own.

9) If a foul is committed:
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A) The referee shall call time.

B) The referee shall check the fouled contestant's condition and safety.

C) The referee shall then assess the foul to the offending contestant, deduct points and notify the seconds, judges and official scorekeeper.

10) If a bottom contestant commits a foul, unless the top contestant is injured, the contest will continue.

A) The referee will verbally notify the bottom contestant of the foul.

B) When the round is over, the referee will assess the foul and notify both corners, the judges and the official scorekeeper.

C) The referee may terminate a bout based on the severity of a foul. If the referee terminates a bout under such circumstances, the contestant committing the foul shall lose by disqualification.

11) Where any injury severe enough for the referee to stop the contest immediately after 2 rounds of a 3 round contest, or after 3 rounds of a 5 round contest are complete, the results of the bout shall be determined as if the bout was completed.

12) Disqualification occurs after any combination of 3 fouls or if the referee determines the foul to be intentional.

13) Except as provided in this Section, any contestant guilty of committing a foul in a round shall be given an immediate warning and points may be deducted from the contestant's total score as determined by the referee. The use of foul tactics may also result in the disqualification of the contestant.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.460  Rounds
EMERGENCY

Rounds:

a) Non-title Bouts. Each non-title bout shall be no less than 3 rounds of 5 minutes in length, with a 1-minute rest period between rounds with a 10 second warning signal.

b) Title Bouts. Each title bout shall be no more than 5 rounds and no less than 3 rounds of 5 minutes in length, with a 1-minute rest period between rounds with a 10 second warning signal.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)

Section 1370.470 Types of Bout Results

A bout may end under the following results:

a) Submission:
   1) Tap out: when a contestant physically uses their hands to indicate that they no longer wish to continue.
   2) Verbal tap out: when a contestant verbally announces to the referee that they do not wish to continue.

b) Knockout (KO): Failure to rise from canvas.

c) Technical Knockout (TKO):
   1) Referee stops bout because contestant can no longer defend him or herself; or
   2) Physician advises referee to stop the bout; or
   3) When an injury as a result of a legal maneuver is severe enough to terminate the bout.
d) Decision via scorecards:
   1) Unanimous decision: when all 3 judges score the bout for the same contestant.
   2) Split decision: when 2 judges score the bout for one contestant and one judge scores for the opponent.
   3) Majority decision: when 2 judges score the bout for the same contestant and one judge scores the bout a draw.

e) Draws:
   1) Unanimous: when all 3 judges score the bout a draw.
   2) Majority: when 2 judges score the bout a draw.
   3) Split: when all 3 judges score it differently and the score total results in a draw.

f) Disqualification: when a contestant has intentionally fouled his or her opponent severe enough to terminate the contest or engages in other unsportsmanlike conduct.

g) Forfeit: when a contestant fails to begin competition or prematurely ends the contest for reasons other than injury or indicating a tap out.

h) Technical draw: When an injury sustained during competition as a result of an intentional foul causes the injured contestant to be unable to continue and the injured contestant is even or behind on the scorecards at the time of the stoppage.

i) Technical decision: When the bout is prematurely stopped due to an injury and a contestant is leading on the scorecards.

j) No contest: When a contestant is prematurely stopped due to accidental injury and a sufficient number of rounds have not been completed to render a decision via scorecards.
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(Source: Added by emergency rulemaking at 32 Ill. Reg. 10448, effective June 27, 2008, for a maximum of 150 days)
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1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Number: Emergency Action:
   140.80 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date: July 1, 2008

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.

7) Date Filed with the Index Department: June 27, 2008

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: This emergency amendment is being filed pursuant to the State's budget plan for fiscal year 2009 and enrolled Senate Bill 2857, which establishes changes concerning hospital provider assessments. The amendments are expected to annually generate approximately $900 million in assessment revenue that will be deposited in the Hospital Provider Fund during fiscal years 2009 through 2013 and will support necessary hospital access improvement payments. Immediate implementation of these changes is necessary to ensure the availability of essential medical care.

10) Complete Description of the Subjects and Issues Involved: This emergency amendment pertains to the Department's hospital provider assessment provisions at Section 140.80. Changes are being made concerning the Hospital Provider Fund pursuant to enrolled Senate Bill 2857, to establish a new annual assessment on hospital providers for State fiscal years 2009 through 2013, in an amount equal to $218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days. These changes are expected to annually generate approximately $900 million in assessment revenue for the Hospital Provider Fund during fiscal years 2009 through 2013.

11) Are there any other proposed rulemakings pending on this Part? No
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12) **Statement of Statewide Policy Objectives:** This emergency amendment neither creates nor expands any State mandate affecting units of local government.

13) **Information and questions regarding this emergency amendment shall be directed to:**

Tamara Tanzillo Hoffman  
Chief of Staff  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3rd Floor  
Springfield IL  62763-0002  
217/557-7157

The full text of the Emergency Amendment begins on the next page:
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NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

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SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7...
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SUBPART C: PROVIDER ASSESSMENTS

Section 140.80  Hospital Provider Fund

a) Purpose and Contents

1) The Hospital Provider Fund ("Fund") was created in the State Treasury on February 3, 2004 (see 305 ILCS 5/5A-8). Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.

2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and 305 ILCS 5/5A-4 and 12.

3) The Fund shall consist of:

   A) All monies collected or received by the Department under
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subsection (b) of this Section;

B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;

C) Any interest or penalty levied in conjunction with the administration of the Fund;

D) Monies transferred from another fund in the State treasury;

E) All other monies received for the Fund from any other source, including interest earned on those monies.

b) Provider Assessments

1) An annual assessment on hospital inpatient services is imposed on each hospital provider in an amount equal to the hospital's occupied bed days multiplied by $84.19 for State fiscal years 2004 and 2005, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date prior to July 1, 2004; or the assessment will be imposed for fiscal year 2005 only, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date on or after July 1, 2004. The Department shall use the number of occupied bed days as reported, by February 3, 2004 (the date of enactment of Public Act 93-0659), by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health to calculate the hospital's annual assessment. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals or if there are data errors in the reported sum of a hospital's occupied bed days as determined by the Department, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

2) Subject to the provisions of 305 ILCS 5/5A-3 and 5A-10, for the privilege of engaging in the occupation of hospital provider, beginning August 1,
2005, an annual assessment is imposed on each hospital provider for State fiscal years 2006, 2007 and 2008, in an amount equal to 2.5835 percent of the hospital provider's adjusted gross hospital revenue for inpatient services and 2.5835 percent of the hospital provider's adjusted gross hospital revenue for outpatient services. If the hospital provider's adjusted gross hospital revenue is not available, then the Department may obtain the hospital provider's adjusted gross hospital revenue from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

3) Subject to Sections 5A-3 and 5A-10 of the Public Aid Code, for State fiscal years 2009 through 2013, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to $218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days. For State fiscal years 2009 through 2013, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, without regard to any subsequent adjustments or changes to such data. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Illinois Department may obtain the hospital provider's occupied bed days and Medicare bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Illinois Department or its duly authorized agents and employees.

c) Payment of Assessment Due

1) For State fiscal years through 2008, the annual assessment shall be due and payable in quarterly installments, each equaling one-fourth of the assessment for the year on the 14th business day of September, December, March and May. The assessment imposed by Section 5A-2 for State fiscal year 2009 and each subsequent State fiscal year shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 14th State business day of each month. No installment payments of an assessment shall be due and payable, however, until after:
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A) The Department notifies the hospital provider, in writing, the hospital provider receives written notice from the Department that the payment methodologies to hospitals required under 305 ILCS 5/5A-12, or 5A-12.1 or 5A-12.2, whichever is applicable for that fiscal year, have been approved by CMS and any waiver necessary under 42 CFR 433.68 has been granted by CMS; and

B) For State fiscal years through 2008, the hospital has received payments required under 305 ILCS 5/5A-12, or 5A-12.1 or 5A-12.2, whichever is applicable for that fiscal year. For State fiscal year 2009 and each subsequent State fiscal year, the Comptroller has issued payments required under 305 ILCS 5/5A-12, 5A-12.1 or 5A-12.2, whichever is applicable for that fiscal year.

2) Assessment payments postmarked on the due date will be considered as paid on time. Upon notification to the Department of approval of the payment methodologies to hospitals required under 305 ILCS 5/5A-12, or 5A-12.1, or 5A-12.2 and any waiver necessary under 42 CFR 433.68 has been granted by the CMS, all quarterly installments otherwise due prior to the date of notification shall be due and payable to the Department upon written direction from the Department and the receipt of the payments required under Section 5A-12, or Section 5A-12.1 or 5A-12.2.

3) Any assessment amount that is due and payable to the Illinois Department more frequently than once per calendar quarter shall be remitted to the Department by the hospital provider by means of electronic funds transfer. The Department may provide for remittance by other means if the amount due is less than $10,000 or electronic funds transfer is unavailable for this purpose.

43) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

d) Notice Requirements, Penalty, and Maintenance of Records

1) The Department shall send a notice of assessment to every hospital
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provider subject to an assessment under subsection (b) of this Section, except that no notice shall be sent until the Department receives written notice that the payment methodologies to hospitals required under 305 ILCS 5/5A-12, or 5A-12.1 or 5A-12.2 have been approved and the waiver under 42 CFR 433.68 has been granted by CMS.

2) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate notice shall be sent for each hospital.

e) Procedure for Partial Year Reporting/Operating Adjustments

1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b) of this Section, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) of this Section by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate or maintain a hospital, the person shall pay the assessment for the year as adjusted (to the extent not previously paid).

2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b) of this Section, upon notice by the Department, shall pay the assessment under subsection (d) of this Section as computed by the Department in installments on the due dates stated on the notices and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment notice. For State fiscal years 2006 through 2008, in determining the annual assessment amount for the provider, the Department shall develop hypothetical adjusted gross hospital revenue for the hospital's first full fiscal year, which may be based on the annualization of the provider's actual revenues for a portion of the year, or revenues of a comparable hospital for the year, including revenues realized by a prior hospital provider of the same hospital during the year. For State fiscal years 2009 through 2013, in the case of a hospital provider
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that did not conduct, operate or maintain a hospital in 2005, the assessment for that State fiscal year shall be computed on the basis of hypothetical occupied bed days for the full calendar year as determined by the Illinois Department. The assessment determination made by the Department is final.

3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital throughout the entire calendar year reporting period, the assessment for the State fiscal year shall be annualized based on the provider's actual adjusted gross hospital revenue information for the portion of the reporting period the hospital was operational (dividing adjusted gross hospital revenue by the number of days the hospital was in operation and then multiplying the amount by 365). Adjusted gross hospital revenue information reported by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.

4) Change in Ownership and/or Operators. The full quarterly installment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.

f) Penalties

1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to five percent of the amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each monthly period thereafter, not to exceed 100 percent of the installment amount not paid on or before the due date. Waiver due to reasonable cause may include but is not limited to:
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A) Provider has not been delinquent on payment of an assessment due, within the last three calendar years from the time the delinquency occurs.

B) A provider can demonstrate to the Department's satisfaction that a payment was made prior to the due date.

C) A provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.

2) Within 30 days after the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program. Payments may be withheld from the hospital until the entire assessment, including any interest and penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached or if a hospital fails to comply with an agreement, the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's rules at 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) of this Section will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Medicaid Program. Failure by the Department to initiate recoupment activities within 30 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Hospitals
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The Department may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:

1) The State delays payments to hospitals due to problems related to State cash flow; or

2) A cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.

h) Delayed Payment – Individual Hospitals

In addition to the provisions of subsection (g) of this Section, the Department may delay assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c) of this Section.

1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions may be made only to qualified hospitals who meet all of the following requirements:

A) The provider has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) of this Section would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:

i) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the provider's ability to provide further services to clients is severely impaired;

ii) Cash flow problems encountered by a provider which are
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unrelated to Department technical system problems and which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.

B) The provider serves a significant number of clients under the medical assistance program. "Significant" in this instance means:

i) A hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital (DSH) under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(5); or qualifies as a Medicare DSH hospital under the current federal guidelines.

ii) A government-owned facility, which meets the cash flow criterion under subsection (h)(1)(A)(ii) of this Section.

iii) A hospital which has filed for Chapter 11 bankruptcy, which meets the cash flow criteria under subsection (h)(1)(A)(ii) of this Section.

C) The provider must file a delay of payment request as defined under subsection (h)(3)(A) of this Section, and the request must include a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:

i) The ratio of current assets divided by current liabilities is greater than 2.0.

ii) Cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.
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D) The provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.

E) The provider must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:

i) Specific reasons for institution of the delayed payment provisions;

ii) Specific dates on which payments must be received and the amount of payment that must be received on each specific date described;

iii) The interest or a statement of interest waiver as described in subsection (h)(5) of this Section that shall be due from the provider as a result of institution of the delayed payment provisions;

iv) A certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;

v) A certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and

vi) Such other terms and conditions that may be required by the Department.

2) A hospital that does not meet the above criteria may request a delayed payment schedule. The Department may approve the request, notwithstanding the hospital not meeting the above criteria, upon a
sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule is approved, all other conditions of this subsection (h) shall apply.

3) Approval Process

A) In order to receive consideration for delayed payment provisions, providers must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:

i) An explanation of the circumstances creating the need for the delayed payment provisions;

ii) Supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) of this Section, a denial of application to borrow the assessment as defined in subsection (h)(1)(D) of this Section and an explanation of the risk of irreparable harm to the clients; and

iii) Specification of the specific arrangements requested by the provider.

B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.
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4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) of this Section may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) of this Section, such penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.

5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) of this Section. The interest may be waived by the Department if the facility's current ratio, as described in subsection (h)(1)(C) of this Section, is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B) of this Section. Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) of this Section.

6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) of this Section shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.

i) Administration and Enforcement Provisions
The Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 and collect the assessments and penalty assessments imposed
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under 305 ILCS 5/5A-2 and 4. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties, and rights:

1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12. Administrative enforcement proceedings initiated shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200 through 104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.

2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.

3) Any unpaid assessment under 305 ILCS 5/5A-2 shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under 305 ILCS 5/5A-2 and 4 up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of such asset shall be liable for the amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Department a certificate showing that such assessment, penalty, and interest have been paid or a certificate from the Department showing that no assessment, penalty, or interest is due from the seller or transferor under 305 ILCS 5/5A-2, 4 and 5.
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4) Payments under 305 ILCS 5/5A-4 are not subject to the Illinois Prompt Payment Act. Credits or refunds shall not bear interest.

5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.

j) Exemptions
The following classes of providers are exempt from the assessment imposed under 305 ILCS 5/5A-4 unless the exemption is adjudged to be unconstitutional or otherwise invalid:

1) A hospital provider that is a State agency, a State university, or a county with a population of 3,000,000 or more.

2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit.

3) For State fiscal years 2004 through 2013, a hospital provider, described in section 1903(w)(3)(F) of the Social Security Act, whose hospital does not charge for its services is exempt from the assessment imposed by Section 5A-2 of the Public Aid Code. For State fiscal years 2004 and 2005, a hospital provider whose hospital does not charge for its services.

4) For State fiscal years 2004 and 2005, a hospital provider whose hospital is licensed by the Department of Public Health as a psychiatric hospital.

5) For State fiscal years 2004 and 2005, a hospital provider whose hospital is licensed by the Department of Public Health as a rehabilitation hospital.
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6) For State fiscal years 2004 and 2005, a hospital provider whose hospital is not a psychiatric hospital, rehabilitation hospital, or a children's hospital and has an average length of inpatient stay greater than 25 days.

k) Nothing in 305 ILCS 5/5A-4 shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before February 3, 2004.

l) Definitions.
As used in this Section, unless the context requires otherwise:

1) "Adjusted gross hospital revenue for inpatient services" means inpatient gross revenue less Medicare gross inpatient revenue, which shall be determined using the most recent data available from each hospital's 2003 Medicare cost report as contained in the HCRIS file for the quarter ending December 31, 2004, without regard to any subsequent adjustments or changes to that data.

2) "Adjusted gross hospital revenue for outpatient services" means outpatient gross revenue less Medicare gross outpatient revenue, which shall be determined using the most recent data available from each hospital's 2003 Medicare cost report as contained in the HCRIS file for the quarter ending December 31, 2004, without regard to any subsequent adjustments or changes to such data.

3) "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

4) "Department" means the Illinois Department of Healthcare and Family Services.

5) "Fund" means the Hospital Provider Fund.

6) "HCRIS" means the federal Centers for Medicare and Medicaid Services Healthcare Cost Report Information System.

7) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and
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whether organized for profit or not-for-profit.

8) "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

9) "Inpatient Gross Revenue" means total inpatient gross revenue, as reported on the HCRIS Worksheet C, Part 1, Column 6, Line 101, less the sum of the following lines (including any subset lines of these lines):

A) Line 34: Skilled Nursing Facility.
B) Line 35: Other Nursing Facility.
C) Line 35.01: Intermediate Care Facility for the Mentally Retarded.
D) Line 36: Other Long Term Care.
E) Line 45: PBC Clinical Laboratory Services – Program Only.
F) Line 60: Clinic.
G) Line 63: Other Outpatient Services.
H) Line 64: Home Program Dialysis.
K) Line 67: Durable Medical Equipment – Sold.
L) Line 68: Other Reimbursable.
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10) "Medicare bed days" means, for each hospital, the sum of the number of days that each bed was occupied by a patient who was covered by Title XVIII of the Social Security Act, excluding days attributable to the routine services provided to persons receiving skilled or intermediate long term care services. Medicare bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

11) "Medicare Gross Inpatient Revenue" means the sum of the following:

A) The sum of the following lines from the HCRIS Worksheet D-4, Column 2 (excluding the Medicare gross revenue attributable to the routine services provided to patients in a psychiatric hospital, a rehabilitation hospital, a distinct part psychiatric unit, a distinct part rehabilitation unit or swing beds):


ii) Line 26: Intensive Care Unit.

iii) Line 27: Coronary Care Unit.

iv) Line 28: Burn Intensive Care Unit.

v) Line 29: Surgical Intensive Care Unit.

vi) Line 30: Other Special Care Unit.

B) From Worksheet D-4, Column 2, the amount from Line 103 less the sum of Lines 60, 63, 64, 66, 67 and 68 (and any subset lines of these lines).

C) The amount from Worksheet D-6, Part 3, Column 3, Line 53.

12) "Medicare Gross Outpatient Revenue" means the amount from the HCRIS Worksheet D, Part V, Line 101, Columns 5, 5.01, 5.02, 5.03 and 5.04 less the sum of Lines 45, 60, 63, 64, 65, 66 and 67 (and any subset lines of these lines).
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"Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds, excluding beds classified as long term care beds and assessed a licensed bed fee during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

"Outpatient Gross Revenue" means the amount from the HCRIS Worksheet C, Part I, Column 7, Line 101 less the sum of lines 45, 60, 63, 64, 65, 66, 67 and 68 (and any subset lines of these lines).

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days)
NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part:** Hospital Services

2) **Code Citation:** 89 Ill. Adm. Code 148

3) **Section Numbers:**

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4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Effective Date:** July 1, 2008

6) **If these emergency amendments is to expire before the end of the 150-day period, please specify the date on which it is to expire:** This emergency rule will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.

7) **Date Filed with the Index Department:** June 27, 2008
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8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: These emergency amendments are being submitted in order to implement hospital rate changes. The emergency amendments also include upper payment limits which, are required by federal CMMS.

10) Complete Description of the Subjects and Issues Involved: The Department proposes implementation of hospital rate changes. The emergency rulemaking also includes upper payment limits that are required by federal CMMS. Further, the amendments provide increases and decreases to SNAP payments for a net reduction of $16.1 million, as well as increases in CHAP payments for $380,000 and an increase in OAAP of $19 million, resulting in a total increase of $3.3 million.

11) Are there any other proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.

13) Information and questions regarding these emergency amendments shall be directed to:

    Tamara Tanzillo Hoffman
    Chief of Staff
    Illinois Department of Healthcare and Family Services
    201 South Grand Avenue East, 3rd Floor
    Springfield IL  62763-0002

    217/557-7157

The full text of the Emergency Amendments begins on the next page:
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NOTICE OF EMERGENCY AMENDMENTS

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CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

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SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.117 Outpatient Assistance Adjustment Payments

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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a) Qualifying Criteria. Outpatient Assistance Adjustment Payments, as described in subsection (b) of this Section, shall be made to Illinois hospitals meeting one of the criteria identified in this subsection (a):

1) A hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 70% and has provided greater than 10,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

2) A general acute care hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 85%.

3) A general acute care hospital that does not qualify for Medicaid Percentage Adjustment Payments for rate year 2007, as defined in Section 148.122, located in Cook County, outside the City of Chicago, has an emergency care percentage greater than 63%, has provided more than 10,750 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year and has provided more than 325 Medicaid surgical group outpatient ambulatory procedure listing services in the outpatient assistance base year.

4) A general acute care hospital located outside of Cook County that qualifies for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Section 148.122, is a trauma center recognized by the Illinois Department of Public Health (IDPH) as of July 1, 2006, has an emergency care percentage greater than 58%, and has provided more than 1,000 Medicaid Non-emergency/Screening outpatient ambulatory procedure listing services in the outpatient assistance base year.

5) A hospital that has a MIUR of greater than 50%, an emergency care percentage greater than 80%, and provided more than 6,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

6) A hospital that has a MIUR of greater than 70% and an emergency care percentage greater than 90%.
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7) A general acute care hospital, not located in Cook County, that is not a trauma center recognized by IDPH as of July 1, 2006, did not qualify for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has a MIUR of greater than 25%, an emergency care percentage greater than 50%, and provided more than 8,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

8) A general acute care hospital, not located in Cook County, that is a level I trauma center, recognized by IDPH as of July 1, 2006, an emergency care percentage greater than 50%, and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services, including more than 1,000 non-emergency screening outpatient ambulatory procedure listing services, in the outpatient assistance base year.

9) A general acute care hospital, not located in Cook County, that qualified for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, an emergency care percentage greater than 55%, and provided more than 12,000 Medicaid outpatient ambulatory procedure listing services, including more than 600 surgical group outpatient ambulatory procedure listing services and 7,000 emergency services in the outpatient assistance base year.

10) A general acute care hospital that has an emergency care percentage greater than 75%, and provided more than 15,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

11) A rural hospital that has a MIUR of greater than 40% and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

12) A general acute care hospital, not located in Cook County, that is a trauma center, recognized by IDPH as of July 1, 2006, had more than 500 licensed beds in calendar year 2005, and provided more than 11,000 Medicaid outpatient ambulatory procedure listing services, including more than 950 surgical group outpatient ambulatory procedure listing services, in the outpatient assistance base year.
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b) Outpatient Assistance Adjustment Payments

1) For hospitals qualifying under subsection (a)(1), the rate is $139.00.

2) For hospitals qualifying under subsection (a)(2), the rate is $336.25.

3) For hospitals qualifying under subsection (a)(3), the rate is $200.25.

4) For hospitals qualifying under subsection (a)(4), the rate is $217.25.

5) For hospitals qualifying under subsection (a)(5), the rate is $250.00.

6) For hospitals qualifying under subsection (a)(6), the rate is $336.25.

7) For hospitals qualifying under subsection (a)(7), the rate is $110.00.

8) For hospitals qualifying under subsection (a)(8), the rate is $200.00.

9) For hospitals qualifying under subsection (a)(9), the rate is $48.50.

10) For hospitals qualifying under subsection (a)(10), the rate is $135.00.

11) For hospitals qualifying under subsection (a)(11), the rate is $65.00.

12) For hospitals qualifying under subsection (a)(12), the rate is $90.00.

c) Payment to a Qualifying Hospital

1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by the Medicaid outpatient ambulatory procedure listing services in the outpatient assistance adjustment base year.

2) For the outpatient assistance adjustment period occurring in State fiscal year 2007, total payments will equal the amount determined using the methodologies described in subsection (c)(1) of this Section. For the period January 1, 2007 through June 30, 2007, total annual payments to
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Each qualifying hospital shall be divided in two, and paid, at least, on a quarterly basis.

23) For the outpatient assistance adjustment period for fiscal year 2009 and after, total payments will equal the amount determined using the methodologies described in subsection (c)(1) of this Section and shall be paid to the hospital, at least, on a quarterly basis.

3) Payments described in subsections (b)(5) through (b)(12) of this Section are contingent upon approval of federal funding for such payments.

d) Definitions

1) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department’s data base adjudicated through June 30, 2006, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006.

2) "General acute care hospital" is a hospital that does not meet the definition of a hospital contained in 89 Ill. Adm. Code 149.50(c).

3) "Outpatient Ambulatory Procedure Listing Payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

4) "Outpatient assistance adjustment year" means, beginning January 1, 2007, the 6-month period beginning on January 1, 2007 and ending June
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30, 2007, and beginning July 1, 2007, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

5) "Outpatient assistance base period" means the 12-month period beginning on July 1, 2004 and ending June 30, 2005.

6) "Surgical group outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(A), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

7) "Non-emergency/screening outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(iii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.122 Medicaid Percentage Adjustments

The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 2003, and each October 1 thereafter unless otherwise noted.

a) Qualified Medicaid Percentage Hospitals. For inpatient services provided on or after October 1, 2003, the Department shall make adjustment payments to hospitals that are deemed as a Medicaid percentage hospital by the Department. A hospital may qualify for a Medicaid Percentage Adjustment in one of the following ways:
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1) The hospital's Medicaid inpatient utilization rate (MIUR), as defined in Section 148.120(k)(4), is at least one-half standard deviation above the mean Medicaid utilization rate, as defined in Section 148.120(k)(3).

2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance) and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for Family and Children Assistance inpatient hospital services, and/or any local or State government-funded care) must be added.

3) Illinois hospitals that, on July 1, 1991, had an MIUR, as defined in Section 148.120(k)(4), that was at least the mean Medicaid inpatient utilization rate, as defined in Section 148.120(k)(3), and that were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5 (1989)).

4) Illinois hospitals that:
   A) Have an MIUR, as defined in Section 148.120(k)(4), that is at least the mean Medicaid inpatient utilization rate, as defined in Section 148.120(k)(3); and
   B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (h)(3) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (h)(2) of this Section.

5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3).

6) Out of state hospitals meeting the criteria in Section 148.120(e).
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b) In making the determination described in subsections (a)(1) and (a)(4)(A) of this Section, the Department shall utilize the data described in Section 148.120(c) and received in compliance with Section 148.120(f).

c) Hospitals may apply to become a qualified Medicaid Percentage Adjustment hospital under subsection (a)(2) of this Section by submitting audited certified financial statements as described in Section 148.120(d) and received in compliance with Section 148.120(f).

d) Medicaid Percentage Adjustments. The adjustment payments required by subsection (a) of this Section for qualified hospitals shall be calculated annually as follows for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Sections 148.25(b)(1)(A) and 148.25(b)(1)(B).

1) The payment adjustment shall be calculated based upon the hospital's MIUR, as defined in Section 148.120(k)(4), and subject to subsections (e) and (f) of this Section, as follows:

A) Hospitals with an MIUR below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25;

B) Hospitals with an MIUR that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25 plus $1 for each one percent that the hospital's MIUR exceeds the mean Medicaid inpatient utilization rate;

C) Hospitals with an MIUR that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $40 plus $7 for each one percent that the hospital's MIUR exceeds one standard deviation above the mean Medicaid inpatient utilization rate; and

D) Hospitals with an MIUR that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $90 plus $2 for each one
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percent that the hospital's MIUR exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.

2) (Reserved).

For a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), the amount calculated pursuant to subsection (d)(1) of this Section shall be increased by $60 per day.

3) The Medicaid Percentage Adjustment payment, calculated in accordance with this subsection (d), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed $155 per day for a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and shall not exceed $215 per day for all other hospitals.

4) The amount calculated pursuant to subsections (d)(1) through (d)(3) of this Section shall be adjusted by the aggregate annual increase in the national hospital market basket price proxies (DRI) hospital cost index from DSH determination year 1993, as defined in Section 148.120(k)(2), through DSH determination year 2003, and annually thereafter, by a percentage equal to the lesser of:

   A) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or

   B) The percentage increase in the Statewide average hospital payment rate, as described in subsection (h)(5) of this Section, over the previous year's Statewide average hospital payment rate.

5) The amount calculated pursuant to subsections (d)(1) through (d)(4) of this Section, as adjusted pursuant to subsections (e) and (f) of this Section, shall be the inpatient payment adjustment in dollars for the applicable Medicaid percentage determination year. The adjustments calculated under subsections (d)(1) through (d)(4) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.
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e) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), the payment adjustment calculated under subsection (d)(1) of this Section shall be multiplied by 2.0.

f) DSH for Government-Owned or Operated Hospitals.

1) The following classes of government-owned or operated Illinois hospitals shall, subject to the limitations set forth in subsection (g) of this Section, be eligible for the disproportionate share hospital adjustment payment:

A) Hospitals defined in Section 148.25(b)(1)(A).

B) Hospitals owned or operated by a unit of local government that is not a hospital defined in subsection (A) of this Section.

C) Hospitals defined in Section 148.25(b)(1)(B).

2) The annual amount of the payment shall be the amount computed for the hospital pursuant to federal limitations, adjusted from the midpoint of the cost report period to the midpoint of the rate period using the CMS Hospital Price Index.

3) The annual amount shall be paid to the hospital in monthly installments. The portion of the annual amount not paid pending approval of payments pursuant to federal approval shall, upon approval, be paid in a single lump sum payment. The annual amount shall be paid to the hospital in twelve equal installments and paid monthly.

Inpatient Adjustor for Hospitals Organized under the University of Illinois Hospital Act. For a hospital or hospitals organized under the University of Illinois Hospital Act, as defined in Section 148.25(b)(1)(B), the payment adjustment calculated under subsection (d)(2) of this Section shall be multiplied by 1.50.

g) Medicaid Percentage Adjustment Limitations.

1) In addition, to be deemed a Medicaid Percentage Adjustment hospital, a hospital must provide to the Department, in writing, the names of at least two obstetricians with staff privileges at the hospital who have agreed to
provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the federal Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age, or does not offer non-emergency obstetric services as of December 22, 1987. Hospitals that do not offer non-emergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

2) Hospitals that qualify for Medicaid Percentage Adjustments under this Section shall not be eligible for the total Medicaid Percentage Adjustment if, during the Medicaid Percentage Adjustment determination year, the hospital discontinues provision of non-emergency obstetrical care. The provisions of this subsection (g)(2) shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered non-emergency obstetrical services as of December 22, 1987. In this instance, the adjustments calculated under subsection (d) shall cease to be effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

3) Appeals based upon a hospital's ineligibility for Medicaid Percentage payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for Medicaid Percentage payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the Medicaid Percentage status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of its eligibility for Medicaid Percentage payment adjustments based upon the requirements of this Section.

4) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for Medicaid percentage payment adjustments under this Section shall not be eligible for Medicaid percentage payment adjustments if the hospital's MIUR, as defined in Section 148.120(k)(4), is less than one percent.
h) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of Inpatient Payment Adjustments are as follows:

1) "Medicaid Percentage determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

2) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (h)(4) of this Section, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid inpatient days, as defined in subsection (h)(6) of this Section, for all such hospitals. That information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

3) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (h)(4) of this Section, provided by a Medicaid-participating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (h)(6) of this Section, provided by such hospital. This information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base.

4) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage Adjustment determination year and contained within the Department's paid claims data base.
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base, for recipients of medical assistance under Title XIX of the Social Security Act, with a Diagnosis Related Grouping (DRG) of 370 through 375, and specifically excludes Medicare/Medicaid crossover claims.

5) "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).

6) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (h)(2) and (h)(3) of this Section, means hospital inpatient days, excluding days for normal newborns, that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.

7) "Medicaid obstetrical inpatient utilization rate base year" means, for example, fiscal year 2002 for the October 1, 2003, Medicaid Percentage Adjustment determination year; fiscal year 2003 for the October 1, 2004, Medicaid Percentage Adjustment determination year; etc.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.126 Safety Net Adjustment Payments

a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a), unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006. A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:

1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.

2) The hospital has the highest number of obstetrical care days in the safety
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net hospital base year.

3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).

4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
   A) Has an MIUR greater than 33 percent.
   B) Is designated a perinatal level two center by the Illinois Department of Public Health.
   C) Has fewer than 125 licensed beds.

5) The hospital is a rural hospital, as described in Section 148.25(g)(3).

6) The hospital meets all of the following criteria:
   A) Has an MIUR greater than 30 percent.
   B) Had an occupancy rate greater than 80 percent in the safety net hospital base year.
   C) Provided greater than 15,000 total days in the safety net hospital base year.

7) The hospital meets all of the following criteria:
   A) Does not already qualify under subsections (a)(1) through (a)(6) of this Section.
   B) Has an MIUR greater than 25 percent.
   C) Had an occupancy rate greater than 68 percent in the safety net hospital base year.
   D) Provided greater than 12,000 total days in the safety net hospital base year.
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The hospital meets all of the following criteria in the safety net base year:

8) 
A) Is a rural hospital, as described in Section 148.25(g)(3).
B) Has an MIUR greater than 18 percent.
C) Has a combined MIUR greater than 45 percent.
D) Has licensed beds less than or equal to 60.
E) Provided greater than 400 total days.
F) Provided fewer than 125 obstetrical care days.

9) 
A) Is a psychiatric hospital, as described in 89 Ill. Adm. Code 149.50(c)(1).
B) Has licensed beds greater than 120.
C) Has an average length of stay less than ten days.

10) 
A) Does not already qualify under subsections (a)(1) through (a)(9) of this Section.
B) Has an MIUR greater than 17 percent.
C) Has licensed beds greater than 450.
D) Has an average length of stay less than four days.

11) 
The hospital meets all of the following criteria in the safety net base year:
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A) Does not already qualify under subsections (a)(1) through (a)(10) of this Section.

B) Has an MIUR greater than 21 percent.

C) Has licensed beds greater than 350.

D) Has an average length of stay less than 3.15 days.

12) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(11) of this Section.

B) Has an MIUR greater than 34 percent.

C) Has licensed beds greater than 350.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

13) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(12) of this Section.

B) Has an MIUR greater than 35 percent.

C) Has an average length of stay less than four days.

14) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(13) of this Section.

B) Has a CMIUR greater than 25 percent.

C) Has an MIUR greater than 12 percent.
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D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

E) Has licensed beds greater than 400.

F) Has an average length of stay less than 3.5 days.

15) (Reserved). The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(14) of this Section.

B) Has a CMIUR greater than 28 percent.

C) Is designated a perinatal Level II center by the Illinois Department of Public Health.

D) Has licensed beds greater than 320.

E) Had an occupancy rate greater than 37 percent in the safety net hospital base year.

F) Has an average length of stay less than 3.1 days.

16) A hospital provider that would otherwise be excluded from payment by subsection (a) because it does not operate a comprehensive emergency room, if the hospital provider operates within 1 mile of an affiliate hospital provider that is owned and controlled by the same governing body that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), and the provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider.

17) The hospital has an MIUR greater than 90% in the safety net hospital base year.

18) The hospital meets all of the following criteria in the safety net base year:
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A) Does not already qualify under subsections (a)(1) through (a)(17) of this Section.

B) Located outside HSA 6.

C) Has a MIUR greater than 16%.

D) Has licensed beds greater than 475.

E) Has an average length of stay less than five days.

19) The hospitals meet all of the following criteria in the safety net base year:

A) Provided greater than 5,000 obstetrical care days.

B) Has a combined MIUR greater than 80%.

b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4), subsections (a)(6) through (a)(8), subsections (a)(10) through (a)(16) and subsections (a)(18) through (a)(19) of this Section:

1) Hospitals located outside of Illinois.

2) County-owned hospitals, as described in Section 148.25(b)(1)(A).

3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).

5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

c) Safety Net Adjustment Rates

1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
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A) A qualifying hospital – $15.00.

B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – $20.00.

C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – $20.00.

D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
   i) Located within HSA 6 or HSA 7 – $296.00.
   ii) Located outside HSA 6 or HSA 7 – $35.00.

E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
   i) Located within HSA 6 or HSA 7 – $35.00.
   ii) Located outside HSA 6 or HSA 7 – $15.00.

F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:
   i) Located within HSA 6 or HSA 7 – $12.00.
   ii) Located outside HSA 6 or HSA 7 – $5.00.

G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – $160.25 $290.75.

H) A children's hospital that is a rural hospital – $145.00.

I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital that is located in HSA 6 and that:
   i) Provides obstetrical care – $10.00.
ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – $35.00.

v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – $5.00; less than 4.00 days – $5.00; less than 3.75 days – $5.00.

vi) Provides obstetrical care and has an MIUR greater than 65 percent – $11.00.

vii) Has greater than 700 licensed beds – $37.75.

J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:

i) Provides obstetrical care – $280.00 if federal approval is received by the Department for such a rate, otherwise the rate shall be $70.00.

ii) Does not provide obstetrical care – $120.00 if federal approval is received by the Department for such a rate, otherwise the rate shall be $30.00.

iii) Is a trauma center, recognized by the Illinois Department of Public Health (IDPH), as of July 1, 2005 – $173.50.

K) A qualifying hospital that provided greater than 35,000 total days in the safety net hospital base year – $43.25.
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L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – $48.00.

2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be $123.00.

3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:

   A) A qualifying hospital – $40.00.

   B) A hospital that has an average length of stay of fewer than 4.00 days, and:

      i) More than 150 licensed beds – $20.00.

      ii) Fewer than 150 licensed beds – $40.00.

   C) A qualifying hospital with the lowest average length of stay – $15.00.

   D) A hospital that has a CMIUR greater than 65 per centum – $35.00.

   E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – $160.00.

4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be $110.00 if federal approval is received by the Department for such a rate, otherwise the rate shall be $55.00.

5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:

   A) The hospital that has the highest number of obstetrical care
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admissions – $30,840.00.

B) The greater of:

i) The product of $115.00 multiplied by the number of obstetrical care admissions.

ii) The product of $11.50 multiplied by the number of general care admissions.

6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is $56.00 if federal approval is received by the Department for such a rate, otherwise the rate shall be $53.00/$49.00.

7) For a hospital qualifying under subsection (a)(7) of this Section, the rate is $210.50 if federal approval is received by the Department for such a rate, otherwise the rate shall be $175.50/$322.50.

8) For a hospital qualifying under subsection (a)(8) of this Section, the rate is $124.50.

9) For a hospital qualifying under subsection (a)(9) of this Section, the rate is $85.50.

10) For a hospital qualifying under subsection (a)(10) of this Section, the rate is $13.75/$96.25.

11) For a hospital qualifying under subsection (a)(11) of this Section, the rate is $39.50.

12) For a hospital qualifying under subsection (a)(12) of this Section, the rate is $240.50 if federal approval is received by the Department for such a rate, otherwise the rate shall be $120.25.

13) For a hospital qualifying under subsection (a)(13) of this Section, the rate is $231.50/$365.00.

14) For a hospital qualifying under subsection (a)(14) of this Section, the rate is $443.75 if federal approval is received by the Department for such a rate, otherwise the rate shall be $221.50/$465.00.
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rate, otherwise the rate shall be $343.75$601.75.

15) (Reserved). For a hospital qualifying under subsection (a)(15) of this Section, the rate is $540.00.

16) For a hospital qualifying under subsection (a)(17) of this Section, the rate is $39.50.

17) For a hospital qualifying under subsection (a)(18) of this Section, the rate is $69.00. This reimbursement rate is contingent on federal approval.

18) For a hospital qualifying under subsection (a)(19) of this Section, the rate is $16.00. This reimbursement rate is contingent on federal approval.

d) Payment to a Qualifying Hospital

1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.

2) For the safety net adjustment period occurring in State fiscal year 2008, total payments will be determined through application of the methodologies described in subsection (c) of this Section, except that, for the period February 16, 2008 through June 30, 2008, payment will equal the State fiscal year 2008 amount less the amount the hospital received under the safety net adjustment period for the quarters ending September 30, 2007 and December 31, 2007.

3) For safety net adjustment periods occurring after State fiscal year 2008, total payments will equal sum of amounts calculated under the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.

e) Definitions

1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.
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2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(k)(6).

3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (e)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).

4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.

5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

6) "MIUR" means, for a given hospital, has the meaning as defined in Section 148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.

7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.
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8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (e)(7) of this Section.

9) "Occupancy rate" means, for a given hospital, a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days, and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365 days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".


11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.

12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)
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Section 148.295 Critical Hospital Adjustment Payments (CHAP)

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

a) Trauma Center Adjustments (TCA)
The Department shall make a TCA to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(4) of this Section. For the purpose of a TCA, a children's hospital, as defined under 89 Ill. Adm. Code 149.50(c)(3), operating under the same license as a hospital designated as a trauma center, shall be deemed to be a trauma center.

1) Level I Trauma Center Adjustment.

   A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by IDPH shall receive the Level I trauma center adjustment. Hospitals qualifying under subsection (a)(2) are not eligible for payment under this subsection.

   B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:

   i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of $21,365.00 per Medicaid trauma admission in the CHAP base period.

   ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall
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receive an adjustment of $14,165.00 per Medicaid trauma admission in the CHAP base period.

2) Level I Trauma Center Adjustment for Illinois hospitals located in the same city, that alternate their Level I trauma center designation.

A) Criteria. Illinois hospitals that are located in the same city and participate in an agreement in effect as of July 1, 2007, whereby their designation as a Level I trauma center by the Illinois Department of Public Health is rotated among qualifying hospitals from year to year or during a year, that are in the following classes:

i) A children's hospital – All children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3), in a given city, qualifying under subsection (a)(2)(A) shall be considered one entity for the purpose of calculating the adjustment in subsection (a)(2)(B).

ii) A general acute care hospital – All general acute care adult hospitals, in a given city, affiliated with a children's hospital, as defined in subsection (a)(2)(A)(i), qualifying under subsection (a)(2)(A) shall be considered one entity for the purposes of calculating the adjustment in subsection (a)(2)(B).

B) Adjustment. Hospitals meeting the criteria specified in subsection (a)(2)(A) shall receive an adjustment as follows:

i) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is equal to or greater than the mean Medicaid trauma admissions for the 2 classes under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of $5,250.00 per Medicaid trauma admission for that class, in the CHAP base period.

ii) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is less than the mean Medicaid trauma admissions of the 2 classes
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... under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of $3,625.00 per Medicaid trauma admission for that class in the CHAP base period.

3) Level II Rural Trauma Center Adjustment. Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of $11,565.00 per Medicaid trauma admission in the CHAP base period.

4) Level II Urban Trauma Center Adjustment. Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of $11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:

A) The hospital is located in a county with no Level I trauma center; and
B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(4) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(4) of this Section; and
C) The hospital does not qualify under subsection (a)(2).

b) Rehabilitation Hospital Adjustment (RHA) Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:
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1) Treatment Component. All hospitals defined in subsection (b) of this Section shall receive $4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.

2) Facility Component. All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:

   A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $229,360.00 in the CHAP rate period.

   B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $527,528.00 in the CHAP rate period.

3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive $276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.

c) Direct Hospital Adjustment (DHA) Criteria

1) Qualifying Criteria

Hospitals may qualify for the DHA under this subsection (c) under the following categories unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006:

   A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:

      i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999 and had a Medicaid
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inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;

ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999 and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or

iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.

B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999 and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.

C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.

D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.

E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999 and provided more than 15,000 Total days.

F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999
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and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.

G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999 that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999 and provided 75 or more Alzheimer days for patients diagnosed as having the disease.

H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.

I) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(H) of this Section, all other hospitals that had an MIUR greater than 23 percent on July 1, 1999, had an average length of stay less than four days, provided more than 4,200 Total days and provided 100 or more Alzheimer days for patients diagnosed as having the disease.

J) A hospital that does not qualify under subsection (c)(1) of this Section because it does not operate a comprehensive emergency room will qualify if the hospital provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider, owned and controlled by the same governing body, that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), within one mile of the hospital provider.

2) DHA Rates

A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:
i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive $69.00 per day for hospitals that do not provide obstetrical care and $105.00 per day for hospitals that do provide obstetrical care.

ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive $105.00 per day for hospitals that do not provide obstetrical care and $142.00 per day for hospitals that do provide obstetrical care.

iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive $124.00 per day for hospitals that do not provide obstetrical care and $160.00 per day for hospitals that do provide obstetrical care.

iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive $142.00 per day for hospitals that do not provide obstetrical care and $179.00 per day for hospitals that do provide obstetrical care.

B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:

i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by $455.00 per day.
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ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by $330.00 per day.

iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional $423.00 per day.

iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by $101.00 per day.

v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional $194.00 per day.

vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by $147.00 per day.

vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by $41.00 per day.

viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999 will have their rate increased by $227.00 per day.

ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by $528.00 per day.

x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by $320.50 per day.

xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by $98.00 per day.
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xii) Hospitals with a Combined MIUR greater than 75 percent that have more than 20,000 total days, have an average length of stay less than five days and have at least one graduate medical program will have their rate increased by $148.00 per day.

C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:

i) Qualifying hospitals will receive a rate of $421.00 per day.

ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by $369.00 per day.

D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:

i) Hospitals will receive a rate of $28.00 per day.

ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by $55.00 per day.

iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by $573.00 per day.

iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by $32.00 per day for hospitals that have fewer than 4,000 Total days; or $246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or $178.00 per day for hospitals that have more than 8,000 Total days.

v) Hospitals with more than 3,200 Total admissions will have their rate increased by $328.00 per day.
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E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:

i) Hospitals will receive a rate of $41.00 per day.

ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional $14.00 per day.

iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional $110.25 per day.

iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional $41.00 per day.

F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive $188.00 per day.

G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of $55.00 per day.

H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:

i) Hospitals with an MIUR equal to or less than 19.75 percent will receive a rate of $11.00 per day.

ii) Hospitals with an MIUR greater than 19.75 percent, but equal to or less than 20.00 percent, will receive a rate of $69.00 per day.

iii) Hospitals with an MIUR greater than 20.00 percent will receive a rate of $110.00 per day.

I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of $268.00 per day.
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J) Hospitals qualifying under subsection (c)(1)(I) of this Section will receive a rate of $328.00 per day if federal approval is received by the Department for such a rate, otherwise the rate shall be $238.00 per day.

K) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.

3) DHA Payments

A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.

B) Payment rates will be multiplied by the Total days.

C) Total Payment Adjustments

i) For the CHAP rate period occurring in State fiscal year 2008, total payments will equal the methodologies described in subsection (c)(2) of this Section.

ii) For CHAP rate periods occurring after State fiscal year 2008, total payments will equal the methodologies described in subsection (c)(2) of this Section.

d) Rural Critical Hospital Adjustment Payments (RCHAP)

RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive $367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:
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1) the product of $1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or

2) the product of $138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.

e) Total CHAP Adjustments
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.

f) Critical Hospital Adjustment Limitations
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased. This limitation does not apply to hospitals qualifying under subsection (a)(2).

g) Critical Hospital Adjustment Payment Definitions
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:

1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.

2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995 CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996 CHAP rate period; etc.

3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
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4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.

5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims database, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.

6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims database, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.

8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims database, for recipients of medical assistance under Title XIX of the Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.

9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day
of June preceding the CHAP rate period and contained within the Department's paid claims database, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.31, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925 through 925.2, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.

10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.

11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.

12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.

13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
"Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.300 Payment

The Department will adjust rate methodologies used to reimburse hospitals to assure compliance with applicable aggregate and hospital-specific federal payment limitations. The Department will pay the full final rates calculated in Sections 148.250-148.290 for hospitals described in 89 Ill. Adm. Code 148.200(e).

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.402 Medicaid Eligibility Payments (Repealed)

a) Qualifying Criteria. Medicaid Eligibility Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it was assessed as described in 89 Ill. Adm. Code 140.80 for the rate year 2006 determination.

b) The following classes of hospitals are ineligible for Medicaid Eligibility Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).
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2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

e) Medicaid Eligibility Payments

1) A hospital qualifying under subsection (a) of this Section shall receive payment equal to the product of $430 multiplied by the qualifying hospital's Medicaid admissions in the Medicaid eligibility base year, multiplied by the change in the growth percentage of Medicaid clients within the hospital's county from State fiscal year 1998 to State fiscal year 2003.

2) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being preformed under this subsection (c).

d) Payment to a Qualifying Hospital

1) For the Medicaid eligibility adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March, and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Growth percentage" means, for a given hospital, the percentage of change in the growth of Medicaid clients within the county where the hospital is located from 1998 to 2003.
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2) "Medicaid admissions" means, for a given hospital, the sum of admissions of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the Medicaid eligibility base period that were adjudicated by the Department through June 30, 2004.

3) "Medicaid eligibility adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

4) "Medicaid eligibility base period" means the 12-month period beginning on July 1, 2002, and ending on June 30, 2003.

Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.404 Medicaid High Volume Adjustment Payments (Repealed)

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a) Qualifying Criteria. Medicaid High Volume Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it is:

1) an Illinois hospital that did not qualify for Medicaid Percentage Adjustments as described in Section 148.122 for the 12-month period beginning on October 1, 2004 and provided more than 10,000 Medicaid inpatient days in the Medicaid high volume base period; or

2) an Illinois general acute care hospital defined in Section 148.270(c)(1) that did qualify for Medicaid Percentage Adjustment Payments as described in Section 148.122 for the 12-month period beginning on October 1, 2004 and provided more than 21,000 Medicaid inpatient days in the Medicaid high volume base period.

b) The following classes of hospitals are ineligible for High Volume Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Medicaid High Volume Adjustment Payments

1) For a hospital qualifying under subsection (a)(1) of this Section, payment is as follows:

A) A hospital that:

i) provided less than or equal to 14,500, but more than 10,000, Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the
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product of $90 multiplied by the qualifying hospital's Medicaid inpatient days;

ii) provided less than or equal to 18,500, but more than 14,500, Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the product of $135 multiplied by the qualifying hospital's Medicaid inpatient days;

iii) provided less than or equal to 20,000, but more than 18,500, Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the product of $225 multiplied by the qualifying hospital's Medicaid inpatient days; or

iv) provided 20,000 or more Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the product of $900 multiplied by the qualifying hospital's Medicaid inpatient days.

B) Payments will be the lesser of the calculation described in subsection (c)(1)(A)(i), (c)(1)(A)(ii), (c)(1)(A)(iii), and (c)(1)(A)(iv) or $19 million dollars.

2) For a hospital qualifying under subsection (a)(2) of this Section, payment shall equal the product of $35 multiplied by the qualifying hospital's Medicaid inpatient days.

3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection.

d) Payment to a Qualifying Hospital

1) For the Medicaid high volume adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh
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State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Medicaid high volume adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

2) "Medicaid high volume base period" means the cost report on file with the Department on July 1, 2004, for the hospital's fiscal year ending in 2002.

3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)
Section 148.406 Intensive Care Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Intensive Care Adjustment Payments shall be made to qualifying Illinois general acute care hospitals as described in Section 148.270(c)(1). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if the hospital is located in a large urban area and has a ratio of Medicaid intensive care days to total Medicaid days greater than 19 percent for the intensive care adjustment period.

b) The following classes of hospitals are ineligible for Intensive Care Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Intensive Care Adjustment Payments

1) Each qualifying hospital with an intensive care ratio of less than 30 percent, shall receive payment equal to the product of:

   A) The ratio of Medicaid intensive care days to total Medicaid days;

   B) Multiplied by total Medicaid days;

   C) Multiplied by $1,000.

2) Each qualifying hospital with an intensive care ratio percentage equal to or greater than 30 percent shall receive payment equal to the product of:

   A) The ratio of Medicaid intensive care days to total Medicaid days;
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B) Multiplied by total Medicaid days;

C) Multiplied by $2,800.

3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (e).

d) Payment to a Qualifying Hospital

1) For the intensive care adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March, and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Intensive care adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

2) "Intensive care base period" means the cost report on file with the Department on July 1, 2004, for the hospital's fiscal year ending in 2002.

3) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).
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4) "Medicaid intensive care days" means, for a given hospital, the sum of days of inpatient hospital service for intensive care days provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.

5) "Total Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.408 Trauma Center Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Trauma Center Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it was a general acute care hospital that, as of January 1, 2005, was considered a trauma center and meets the requirements specified in subsection (c).
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b) The following classes of hospitals are ineligible for Trauma Center Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Trauma Center Adjustment Payments

1) Level I Trauma Center Adjustment Payments

A) For an Illinois general acute care hospital that was considered a Level I trauma center as of January 1, 2005 and that is located in a large urban area or an other urban area that qualified for Medicaid Percentage Adjustments as described in Section 148.122 as of October 1, 2004, shall receive payments equal to the product of $800 multiplied by the qualifying hospital's Medicaid intensive care unit (ICU) days in the trauma base period.

i) For a hospital located in a large urban area outside of a city with a population in excess of one million people, the Department shall pay an amount equal to the Level I Trauma Center Adjustment Payment calculated in subsection (c)(1)(A) of this Section multiplied by 4.5.

ii) For a hospital located in another urban area, the Department shall pay an amount equal to the Level I Trauma Center Adjustment Payment calculated in (c)(1)(A) multiplied by 8.5.

2) Level II Trauma Center Adjustment Payments

A) For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005 and was designated a
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Level III perinatal center, the payment shall equal the product of $475 multiplied by the qualifying hospital's Medicaid inpatient days in the trauma base period.

B) For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005 and was designated a Level II or II+ perinatal center that has a ratio of Medicaid ICU days to total Medicaid days greater than five percent, the payment shall equal the product of $475 multiplied by the qualifying hospital's Medicaid inpatient days in the trauma base period.

3) Pediatric Trauma Center Adjustment Payments

A) Qualifying Criteria: Payment shall be for all Illinois children's hospitals designated as Level I pediatric trauma centers that provided more than 30,000 Medicaid days in State fiscal year 2003 and those out-of-state Level I pediatric trauma centers that provided more than 700 Illinois Medicaid admissions in State fiscal year 2003.

B) A hospital qualifying under subsection (c)(3)(A) of this Section shall receive payment equal to the product of $325 multiplied by the hospital's Illinois Medicaid ICU days.

C) For out-of-state hospitals qualifying under subsection (c)(3)(A), the amount calculated under subsection (c)(3)(B) shall be multiplied by 2.25.

4) A hospital that enrolled to provide Medicaid services during fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (c).

5) Notwithstanding any other provisions of this subsection (c), a children's hospital, as defined at 89 Ill. Adm. Code 149.49(c)(3)(b), is not eligible for the payments described in subsections (c)(1) and (c)(2) of this Section.

d) Payment to a Qualifying Hospital
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1) For the trauma center adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (e) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) being met shall be paid within 100 days after the conditions described in subsection (f) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).

2) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.

3) "Medicaid intensive care unit days" means, for a given hospital, the number of hospital inpatient days during which Medicaid recipients received intensive care services from the hospital, as determined from the hospital's 2002 Medicaid cost report on file with the Department on July 1, 2004.

4) "Other urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a city with a population in excess of 50,000 or
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with a total population in excess of 100,000, and with an urban hospital as described in Section 148.25(g)(4).

5) "Trauma center adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006 and, beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

6) "Trauma center base period" means days reported in the hospital's 2002 Medicaid cost report on file with the Department on July 1, 2004.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.410 Psychiatric Rate Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Psychiatric Rate Adjustment Payments described in subsection (b) of this Section shall be made to an Illinois psychiatric hospital and an Illinois general acute care hospital that has a distinct part psychiatric unit, excluding the following hospitals:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
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3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Psychiatric Rate Adjustment Payments

1) For a hospital qualifying under subsection (a) of this Section, the Department shall pay an amount equal to $420 less the hospital's per diem rate for Medicaid inpatient psychiatric services, in effect on July 1, 2002, multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric rate base period. In no event, however, shall that amount be less than zero.

2) For a hospital qualifying under subsection (a) of this Section whose inpatient psychiatric per diem rate is greater than $420, the Department shall pay an amount equal to $40 multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric rate base period.

3) For an Illinois psychiatric hospital located in a county with a population in excess of three million people that did not qualify for Medicaid Percentage Adjustments, as described in Section 148.122, for the 12-month period beginning on October 1, 2004, the Department shall pay an amount equal to $150 multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric rate base period.

4) For an Illinois psychiatric hospital located in a county with a population in excess of three million people, but outside of a city with a population in excess of one million people, and did qualify for Medicaid Percentage Adjustments, as described in Section 148.122, for the 12-month period beginning on October 1, 2004, the Department shall pay an amount equal to $20 multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric rate base period.

c) Payment to a Qualifying Hospital

1) For the psychiatric rate adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required
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prior to the conditions described in subsection (e) of this Section being met shall be paid within 100 days after the conditions described in subsection (e) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) Definitions

1) "Medicaid inpatient psychiatric days" means, for a given hospital, the sum of days of inpatient psychiatric hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the psychiatric base period that were adjudicated by the Department through June 30, 2004.

2) "Psychiatric rate adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

3) "Psychiatric rate base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)
Section 148.412 Rehabilitation Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Rehabilitation Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment:

1) if it is an Illinois general acute care hospital, as described in Section 148.270(e)(1), located in a large urban area, with a rehabilitation unit that has 40 rehabilitation beds or more based upon the 2003 Medicaid cost report on file with the Department as of March 31, 2005; or

2) if it is an Illinois rehabilitation hospital, as defined at 89 Ill. Adm. Code 149.50(e)(2), that did not qualify for Medicaid Percentage Adjustment Payments under Section 148.122 for the 12-month period beginning on October 1, 2004.

b) The following classes of hospitals are ineligible for Rehabilitation Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Rehabilitation Adjustment Payments

1) For a hospital qualifying under subsection (a)(1) of this Section, the Department shall pay the product of $230 multiplied by the hospital's Medicaid inpatient days.

2) For a hospital qualifying under subsection (a)(2) of this Section, the Department shall pay an amount equal to the product of $200 multiplied by the hospital's Medicaid inpatient days.
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3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (c).

d) Payment to a Qualifying Hospital

1) For the rehabilitation adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Large urban area" means, an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).

2) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the rehabilitation base period that was adjudicated by the Department through June 30, 2004.

3) "Rehabilitation adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006,
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and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

4) "Rehabilitation base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.414 Supplemental Tertiary Care Adjustment Payments (Repealed)

a) Qualifying Criteria. Supplemental Tertiary Care Adjustment Payments, as described in subsection (b) of this Section, shall be made to all qualifying hospitals. An Illinois hospital shall qualify for payment if it was deemed eligible for payments under the Tertiary Care Adjustment Payments for fiscal year 2005, as described in Section 148.296, excluding:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
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b) Supplemental Tertiary Care Adjustment Payments will be made to qualifying hospitals and will equal the product of the hospital's fiscal year 2005 tertiary care adjustment as described at Section 148.296 multiplied by 2.5.

c) Payment to a Qualifying Hospital

1) For the supplemental tertiary care adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March, and May. The sum of the amounts required prior to the conditions described in subsection (e) being met shall be paid within 100 days after the conditions described in subsection (e) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) "Tertiary care adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, means the 12-month period beginning July 1 of the year and ending June 30 of the following year.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.416 Crossover Percentage Adjustment Payments (Repealed)
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a) Qualifying Criteria. Crossover Percentage Adjustment Payments shall be made to qualifying hospitals as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it is an Illinois general acute care hospital as described in Section 148.270(c)(1), excluding any hospital defined as a cancer center hospital, located in an urban area, that provided over 500 days of inpatient care to Medicaid recipients, that had a ratio of crossover days to total Medicaid days, utilizing information used for the Medicaid percentage adjustment determination described in Section 148.122, effective October 1, 2004, of greater than 40 percent and that did not qualify for Medicaid Percentage Adjustment Payments as described in Section 148.122 on October 1, 2004.

b) The following classes of hospitals are ineligible for Crossover Percentage Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

4) Cancer center hospitals.

c) Crossover Percentage Adjustment Payments

1) Each qualifying hospital's crossover days will be divided by its total Medicaid days to determine the crossover percentage ratio.

2) Each hospital qualifying under subsection (a) of this Section, located in an other urban area as described in subsection (e)(5) of this Section, shall receive payment equal to $140 multiplied by the hospital's total Medicaid days (including Medicaid/Medicare crossovers).

3) Each hospital qualifying under subsection (a) of this Section located in a large urban area as described in subsection (e)(4) of this Section, with a
crossover percentage less than 55 percent, shall receive payment equal to 
$350 multiplied by the hospital's total Medicaid days (including 
Medicaid/Medicare crossovers).

4) Each hospital qualifying under subsection (a) located in a large urban 
area as described in subsection (e)(4) of this Section, with a crossover 
percentage ratio equal to or greater than 55 percent, shall receive payment 
equal to $1,400 multiplied by the hospital's total Medicaid days (including 
Medicaid/Medicare crossovers).

5) A hospital that enrolled to provide Medicaid services during State fiscal 
year 2003 shall have its utilization and associated reimbursements 
annualized prior to the payment calculations being performed under this 
subsection (c).

d) Payment to a Qualifying Hospital

1) For the crossover percentage adjustment period for fiscal year 2006, fiscal 
year 2007 and fiscal year 2008 total payments will equal the 
methodologies described in subsection (c) of this Section and shall be paid 
to the hospital in four equal installments on or before the seventh State 
business day of September, December, March and May. The sum of the 
amounts required prior to the conditions described in subsection (f) of this 
Section being met shall be paid within 100 days after the conditions 
described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based 
on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Cancer center hospital" means an Illinois hospital that has received the 
approval of the American College of Surgeons Commission on Cancer as 
of June 16, 2005 and provides more than 15 percent of the hospital 
Medicaid days in State fiscal year 2003 for treating patients with cancer. 
To be counted as cancer days, the Department will identify cancer days 
with any claim that contains an ICD-9-CM diagnosis code of 140.0 
through 208.9 and 230.0 through 234.9 provided to recipients of medical 
assistance under Title XIX of the federal Social Security Act, as tabulated
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from the Department's paid claims data for admissions occurring in the State fiscal year 2003 base period that were adjudicated by the Department through June 30, 2004. To determine if 15 percent of the hospital Medicaid days were for treating cancer patients, the cancer days will be divided by the total Medicaid days provided to recipients of medical assistance under Title XIX of the federal Social Security Act, as tabulated from the Department's paid claims data for admissions occurring in the State fiscal year 2003 base period that were adjudicated by the Department through June 30, 2004.

2) "Crossover percentage adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

3) "Crossover percentage base period" means the information utilized in the Medicaid percentage adjustment determination as described in Section 148.122 for October 1, 2004.

4) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).

5) "Other urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a city with a population greater than 50,000 or with a total population in excess of 100,000, and with an urban hospital as described in Section 148.25(g)(4).

6) "Total Medicaid days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, including days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's Medicaid percentage adjustment determination as described in Section 148.122 for October 1, 2004.
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f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.418 Long Term Acute Care Hospital Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Long Term Acute Care Hospital Adjustment Payments described in subsection (b) of this Section shall be made to an Illinois long term stay hospital, as defined in 89 Ill. Adm. Code 149.50(c)(4), excluding:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Long Term Acute Care Hospital Adjustment Payments

1) For a hospital qualifying under subsection (a) of this Section, the Department shall pay an amount equal to the product of $125 multiplied by Medicaid inpatient days provided during the long term acute care hospital base period.

2) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements
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annualized prior to the payment calculations being performed under this subsection (b).

c) Payment to a Qualifying Hospital

1) For the long term acute care hospital adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) being met shall be paid within 100 days after the conditions described in subsection (e) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) Definitions

1) "Long term acute care hospital adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

2) "Long term acute care hospital base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.

3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the long-term care hospital base period that was adjudicated by the Department through June 30, 2004.

e) Payment Limitations: Payments under this Section are not due and payable until:
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1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.420 Obstetrical Care Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria—Obstetrical Care Adjustment Payments shall be made to a qualifying Illinois hospital that provided obstetrical care in the obstetrical base period. A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment for the rate year 2006 determination.

b) The following classes of hospitals are ineligible for Obstetrical Care Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Obstetrical Care Adjustment Payments

1) A hospital qualifying under subsection (a) of this Section shall receive payments equal to the product of $550 multiplied by the qualifying hospital’s Medicaid obstetrical days provided during the obstetrical care base period.
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2) A hospital qualifying under subsection (a) of this Section that qualified for disproportionate share payment adjustments as described in Section 148.120 as of October 1, 2004, with a Medicaid obstetrical percentage greater than ten percent and a Medicaid emergency care percentage greater than 40 percent, shall receive payments equal to the product of $650 multiplied by the qualifying hospital's Medicaid obstetrical days provided during the obstetrical care base period.

3) A hospital qualifying under subsection (a) of this Section located in the St. Louis metropolitan statistical area, with more than 500 Medicaid obstetrical days, shall receive payments equal to the product of $1,800 multiplied by the qualifying hospital's Medicaid obstetrical days provided during the obstetrical care base period.

4) A large urban hospital qualifying under subsection (a) of this Section that has a Medicaid obstetrical percentage greater than 25 percent and is in a county with an eligibility growth percentage rate greater than 60 percent between the years 1998 and 2003 shall receive payments equal to the product of $600 multiplied by the qualifying hospital's Medicaid obstetrical days provided within the obstetrical care base period.

5) A rural hospital as described in Section 148.25(g)(3) qualifying under subsection (a) designated as a Level II perinatal center as of January 1, 2005, with a MIUR greater than 34 percent in State fiscal year 2002 and a Medicaid obstetrical percentage greater than 15 percent, shall receive payment equal to the product of $400 multiplied by the hospital's Medicaid obstetrical days provided within the obstetrical care base period multiplied by 6.

6) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (c).

d) Payment to a Qualifying Hospital

1) For the obstetrical care adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital.
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in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Emergency care percentage" means a fraction, the numerator of which is the total Category 3 ambulatory procedure listing services, excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2003 contained in the Department's data base adjudicated through June 30, 2004, and the denominator of which is the total ambulatory procedure listing services, excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2003 contained in the Department's data base adjudicated through June 30, 2004.

2) "Growth percentage" means, for a given hospital, the percentage of change in the growth of Medicaid clients within the county where the hospital is located from 1998 to 2003.

3) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000.

4) "Medicaid obstetrical days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, with a Diagnosis Related Grouping (DRG) of 370 through 375, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the obstetrical base period the Department adjudicated through June 30, 2004.
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5) "Medicaid obstetrical percentage" means the percentage used in the October 1, 2004 Medicaid percentage adjustment determination as described in Section 148.122.

6) "Obstetrical care adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

7) "Obstetrical care base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.422 Outpatient Access Payments (Repealed)

EMERGENCY

a) Qualifying Criteria: Outpatient Access Payments, as described in subsection (b) of this Section, shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital shall qualify for payment if it was assessed as described in 89 Ill. Adm. Code 140.80 for the rate year 2006 determination, excluding the following hospitals:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
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3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Outpatient Access Payments

1) Outpatient access payments shall be made to a hospital qualifying under subsection (a) of this Section. Payment will equal 2.38 multiplied by the hospital’s outpatient ambulatory procedure listing payments for services provided in the outpatient access base period, multiplied by the change in the growth percentage of Medicaid clients within the hospital’s county from State fiscal year 1998 to State fiscal year 2003.

2) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (b).

c) Payment to a Qualifying Hospital

1) For the outpatient access adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) of this Section being met shall be paid within 100 days after the conditions described in subsection (e) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) Definitions

1) "Growth percentage" means, for a given hospital, the percentage of change in the growth of Medicaid clients within the county where the hospital is located from 1998 to 2003.
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2) "Outpatient access adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

3) "Outpatient access base period" means the 12-month period beginning on July 1, 2002 and ending June 30, 2003.

4) "Outpatient ambulatory procedure listing payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient access base period that were adjudicated by the Department through June 30, 2004.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.424 Outpatient Utilization Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Outpatient Utilization Payments, as described in subsection (b) of this Section, shall be made to an Illinois hospital, excluding:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).
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2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Outpatient Utilization Adjustment Payments

1) A rural hospital, as described in Section 148.25(g)(3) and qualifying under subsection (a) of this Section shall receive an amount equal to 1.7 multiplied by the hospital's outpatient ambulatory procedure listing payments for services provided during the outpatient utilization adjustment base period.

2) An urban hospital, as described in Section 148.25(g)(4) and qualifying under subsection (a) of this Section shall receive an amount equal to 0.45 multiplied by the hospital's outpatient ambulatory procedure listing payments for services provided during the outpatient utilization adjustment base period.

3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (b).

e) Payment to a Qualifying Hospital

1) For the outpatient utilization adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) of this Section being met shall be paid within 100 days after the conditions described in subsection (e) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
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d) Definitions

1) "Outpatient ambulatory procedure listing payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient access base period that were adjudicated by the Department through June 30, 2004.

2) "Outpatient utilization adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

3) "Outpatient utilization base period" means the 12-month period beginning on July 1, 2002 and ending June 30, 2003.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.426 Outpatient Complexity of Care Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Outpatient Complexity of Care Adjustment Payments, as described in subsection (b) of this Section, shall be made to Illinois hospitals located in an urban area as described in Section 148.25(g)(4), excluding:
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1) County-owned hospitals, as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Outpatient Complexity of Care Adjustment Payments

1) Each hospital qualifying under subsection (a) of this Section will receive a payment equal to the product of 2.55, multiplied by the hospital’s emergency care percentage, multiplied by the hospital’s ambulatory procedure listing payments.

2) Each children’s hospital qualifying under subsection (a) of this Section, with a Medicaid inpatient utilization rate greater than 90 percent used for the October 1, 2004 Medicaid percentage adjustment determination described in Section 148.122, shall have the adjustment, as calculated in subsection (b)(1), multiplied by 2.

3) Each cancer center hospital qualifying under subsection (a) of this Section shall have the adjustment, as calculated in (b)(1), multiplied by 3.

4) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (b).

c) Payment to a Qualifying Hospital

1) For the outpatient complexity of care adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) of this Section being met shall be paid within 100 days after the conditions described in subsection (e) have been met.
2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) Definitions

1) "Cancer center hospital" means an Illinois hospital that has received the approval of the American College of Surgeons Commission on Cancer as of June 16, 2005 and provides more than 15 percent of the hospital Medicaid days in State fiscal year 2003 for treating patients with cancer. To be counted as cancer days, the Department will identify cancer days with any claim that contains an ICD-9-CM diagnosis code of 140.0 through 208.9 and 230.0 through 234.9 provided to recipients of medical assistance under Title XIX of the federal Social Security Act, as tabulated from the Department's paid claims data for admissions occurring in the State fiscal year 2003 base period that were adjudicated by the Department through June 30, 2004. To determine if 15 percent of the hospital Medicaid days were for treating cancer patients, the cancer days will be divided by the total Medicaid days provided to recipients of medical assistance under Title XIX of the federal Social Security Act, as tabulated from the Department's paid claims data for admissions occurring in the State fiscal year 2003 base period that were adjudicated by the Department through June 30, 2004.

2) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2003 contained in the Department's data base adjudicated through June 30, 2004, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2003 contained in the Department's data base adjudicated through June 30, 2004.

3) "Outpatient ambulatory procedure listing payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare
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crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient complexity of care base period that were adjudicated by the Department through June 30, 2004.

4) "Outpatient complexity of care adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

5) "Outpatient complexity of care base period" means the 12-month period beginning on July 1, 2002 and ending June 30, 2003.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.428 Rehabilitation Hospital Adjustment Payments (Repealed)
EMERGENCY

a) Qualifying Criteria. Rehabilitation Hospital Adjustment Payments, as described in subsection (c) of this Section, shall be made to a qualifying Illinois freestanding rehabilitation hospital that did not qualify for Medicaid Percentage Adjustment Payments as described in Section 148.122 for the 12-month period beginning on October 1, 2004, if not otherwise excluded under subsection (b) of this Section.

b) The following classes of hospitals are ineligible for Rehabilitation Hospital Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:
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1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in 89 Ill. Adm. Code 148.25(b)(6).

e) Rehabilitation Hospital Adjustment Payments for hospitals qualifying under subsection (a) of this Section will receive an amount equal to three multiplied by the hospital’s outpatient ambulatory procedure listing payments for Group 6A services provided during the rehabilitation hospital base period.

d) Payment to a Qualifying Hospital

1) For the rehabilitation hospital adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Outpatient ambulatory procedure listing payments for Group 6A services" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1)(F), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the rehabilitation hospital base period that were adjudicated by the Department through June 30, 2004.
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2) "Rehabilitation hospital adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

3) "Rehabilitation hospital base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.430 Perinatal Outpatient Adjustment Payments (Repealed)

EMERGENCY

a) Qualifying Criteria. Perinatal Outpatient Adjustment Payments shall be made to qualifying Illinois general acute care hospitals that were designated as a perinatal center as of January 1, 2005. A hospital not otherwise excluded under subsection (b) of this Section for the perinatal outpatient adjustment period determination shall qualify for payment if the hospital:

1) Is located in a large urban area;

2) Has a Medicaid obstetrical percentage of at least ten percent used for the October 1, 2004 Medicaid percentage adjustment determination as described in Section 148.122;

3) Has a Medicaid intensive care unit percentage of at least three percent; and
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4) Has a ratio of ambulatory procedure listing for total Group 3 services, described in Section 148.140(b)(1)(C), to total ambulatory procedure services, as described in Section 148.140(b)(1), of at least 50 percent.

b) The following classes of hospitals are ineligible for Perinatal Outpatient Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

c) Perinatal Outpatient Adjustment Payments

1) A hospital qualifying under subsection (a) of this Section shall receive payment equal to the product of $550 multiplied by the hospital's ambulatory procedure listing for emergency Level I services described in Section 148.140(b)(1)(C)(i) provided in the perinatal outpatient base period.

2) For a hospital that, as of January 1, 2005, was designated a Level II++ or III perinatal center qualifying under subsection (a) of this Section, the payment calculated in subsection (c)(1) will be multiplied by four.

3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (c).

d) Payment to a Qualifying Hospital

1) For the perinatal outpatient adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008, the total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State
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business day of September, December, March, and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

e) Definitions

1) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).

2) "Medicaid intensive care unit percentage" means a fraction, the numerator of which is the number of hospital inpatient days during which Medicaid recipients received intensive care services from the hospital, as determined from the hospital's fiscal year 2002 Medicaid cost report on file with the Department as of July 1, 2004, and the denominator of which is the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.

3) "Outpatient ambulatory procedure listing emergency Level I services" means, for a given hospital, the sum of services for ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(i), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the perinatal outpatient base period that were adjudicated by the Department through June 30, 2004.

4) "Perinatal outpatient adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June
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30, 2006, and beginning July 1, 2006, the 12-month period beginning July
1 of the year and ending June 30 of the following year.

5) "Perinatal outpatient base period" means the 12-month period beginning
on July 1, 2002 and ending on June 30, 2003.

f) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from
the Centers for Medicare and Medicaid Services in an appropriate State
Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to
be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1,
2008, for a maximum of 150 days)

Section 148.432 Supplemental Psychiatric Adjustment Payments (Repealed)
EMERGENCY

a) Qualifying Criteria. Supplemental Psychiatric Adjustment Payments shall be
made to a qualifying hospital as defined in this subsection (a). An Illinois
hospital shall qualify for payment if it did not qualify for Medicaid Percentage
Adjustment Payments as described in Section 148.122 for the 12-month period
beginning October 1, 2004, but is eligible for psychiatric adjustment payments as
described in Section 148.105 for fiscal year 2005, excluding:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as
described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section
148.25(b)(6).
b) Supplemental Psychiatric Adjustment Payments will be made to qualifying hospitals and will equal the product of the hospital's fiscal year 2005 Psychiatric Adjustment Payments, as described in Section 148.105, multiplied by 0.7.

c) Payment to a Qualifying Hospital

1) For the supplemental psychiatric adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) being met shall be paid within 100 days after the conditions described in subsection (e) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) "Supplemental base rate adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section received federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)

Section 148.434 Outpatient Community Access Adjustment Payments (Repealed) EMERGENCY
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

a) Qualifying Criteria. Outpatient Community Access Adjustment Payments, as described in subsection (b) of this Section, shall be made to an Illinois general acute care hospital as described in Section 148.270(c)(1) that was designated as a perinatal center as of January 1, 2005, that had a Medicaid obstetrical percentage used for the October 1, 2004 Medicaid percentage adjustment determination described in Section 148.122 of at least 12.5 percent, that had a ratio of crossover days to total Medicaid days greater than or equal to 25 percent, utilizing information used for the Medicaid Percentage Adjustment Payment described in Section 148.122, and that qualified for Medicaid Percentage Adjustment Payments as described in Section 148.122 on October 1, 2004, excluding:

1) County-owned hospitals as described in Section 148.25(b)(1)(A).

2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

b) Outpatient Community Access Adjustment Payments

1) Hospitals qualifying under subsection (a) of this Section shall receive an amount equal to $100 multiplied by the hospital's outpatient ambulatory procedure listing services in the outpatient community access base period.

2) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being preformed under this subsection (b).

c) Payment to a Qualifying Hospital

1) For the outpatient community access adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) being met shall be paid
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

within 100 days after the conditions described in subsection (e) of this Section have been met.

2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

d) Definitions

1) "Outpatient ambulatory procedure listing services" means, for a given hospital, the sum of services for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient community access base period that were adjudicated by the Department through June 30, 2004.

2) "Outpatient community access adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12 month period beginning July 1 of the year and ending June 30 of the following year.

3) "Outpatient community access base period" means the 12-month period beginning on July 1, 2002 and ending June 30, 2003.

e) Payment Limitations: Payments under this Section are not due and payable until:

1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part:** Temporary Assistance for Needy Families

2) **Code Citation:** 89 Ill. Adm. Code 112

3) **Section Numbers:**
   - 112.252 Amendment
   - 112.253 Amendment
   - 112.254 Amendment

4) **Statutory Authority:** Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13]

5) **Effective date of amendments:** July 1, 2008

6) **If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire:** These emergency amendments will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.

7) **Date filed with the Index Department:** June 25, 2008

8) **A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.**

9) **Reason for Emergency:** This emergency rulemaking is necessary to address the hardship of the economic decline placed on this population whose current income standard is below 40% of the Federal Poverty Level.

10) **A Complete Description of the Subject and Issues:** This rulemaking increases the TANF Payment Levels. As a result, customers will realize an increase in their available income as the increased Payment Levels will be used to determine their monthly grant amount.

11) **Are there any other proposed rulemakings pending on this Part?** Yes

   **Section Number:**
   - 112.156 Amendment

   **Illinois Register Citation:**
   - 32 Ill. Reg. 3568; March 14, 2008

12) **Statement of statewide policy objectives:** This rulemaking does not create or expand a State mandate.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

13) Information and questions regarding these emergency amendments shall be directed to:

    Tracie Drew, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue East
    Harris Bldg., 3rd Floor
    Springfield, Illinois 62762

    217/785-9772

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section   Description
112.1     Description of the Assistance Program and Time Limit
112.2     Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3     Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5     Incorporation by Reference
112.6     The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section   Description
112.8     Caretaker Relative
112.9     Client Cooperation
112.10    Citizenship
112.20    Residence
112.30    Age
112.40    Relationship
112.50    Living Arrangement
112.52    Social Security Numbers
112.54    Assignment of Medical Support Rights
112.60    Basis of Eligibility
112.61    Death of a Parent (Repealed)
112.62    Incapacity of a Parent (Repealed)
112.63    Continued Absence of a Parent (Repealed)
112.64    Unemployment of the Parent (Repealed)
112.65    Responsibility and Services Plan
112.66    Alcohol and Substance Abuse Treatment
112.67    Restriction in Payment to Households Headed by a Minor Parent
112.68    School Attendance Initiative
112.69    Felons and Violators of Parole or Probation
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section
112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Employed Applicants
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-contractual School Employees
112.137 Termination of Employment
112.138 Transitional Payments (Repealed)
112.140 Exempt Earned Income
112.141 Earned Income Exemption
112.142 Exclusion from Earned Income Exemption
112.143 Recognized Employment Expenses
112.144 Income from Work-Study and Training Programs
112.145 Earned Income From Self-Employment
112.146 Earned Income From Roomer and Boarder
112.147 Income From Rental Property
112.148 Payments from the Illinois Department of Children and Family Services
112.149 Earned Income In-Kind
112.150 Assets
112.151 Exempt Assets
112.152 Asset Disregards
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.153 Deferral of Consideration of Assets
112.154 Property Transfers (Repealed)
112.155 Income Limit
112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

Section
112.250 Grant Levels
112.251 Payment Levels
112.252 Payment Levels in Group I Counties
112.253 Payment Levels in Group II Counties
112.254 Payment Levels in Group III Counties
112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section
112.300 Persons Who May Be Included in the Assistance Unit
112.301 Presumptive Eligibility
112.302 Reporting Requirements for Clients with Earnings
112.303 Budgeting
112.304 Budgeting Schedule
112.305 Strikers
112.306 Foster Care Program
112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309 Institutional Status
112.310 Child Care for Representative Payees
112.315 Young Parents Program (Renumbered)
112.320 Redetermination of Eligibility
112.330 Extension of Medical Assistance Due to Increased Income from Employment
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(Repealed)

112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section
112.350 Child Care (Repealed)
112.352 Child Care Eligibility (Repealed)
112.354 Qualified Provider (Repealed)
112.356 Notification of Available Services (Repealed)
112.358 Participant Rights and Responsibilities (Repealed)
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364 Rates of Payment for Child Care (Repealed)
112.366 Method of Providing Child Care (Repealed)
112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
112.400 Transitional Child Care Eligibility (Repealed)
112.404 Duration of Eligibility for Transitional Child Care (Repealed)
112.406 Loss of Eligibility for Transitional Child Care (Repealed)
112.408 Qualified Child Care Providers (Repealed)
112.410 Notification of Available Services (Repealed)
112.412 Participant Rights and Responsibilities (Repealed)
112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF HUMAN SERVICES
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NOTICE OF EMERGENCY AMENDMENTS

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NOTICE OF EMERGENCY AMENDMENTS


SUBPART H: PAYMENT AMOUNTS

Section 112.252 Payment Levels in Group I Counties

<table>
<thead>
<tr>
<th>EMERGENCY</th>
</tr>
</thead>
</table>

  a) The following Payment Levels are established for Group I Counties.

  b) The counties included in Group I are:

<table>
<thead>
<tr>
<th>Boone</th>
<th>Kane</th>
<th>Ogle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Champaign</td>
<td>Kankakee</td>
<td>Whiteside</td>
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<tr>
<td>Cook</td>
<td>Kendall</td>
<td>Winnebago</td>
</tr>
<tr>
<td>DeKalb</td>
<td>Lake</td>
<td>Woodford</td>
</tr>
<tr>
<td>Dupage</td>
<td>McHenry</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN</th>
<th>CHILDREN ONLY</th>
</tr>
</thead>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

<p>| | | |</p>
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</table>

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days)

Section 112.253 Payment Levels in Group II Counties

<table>
<thead>
<tr>
<th>EMERGENCY</th>
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(a) The following Payment Levels are established for Group II Counties.

(b) The counties included in Group II are:

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<tr>
<th>Adams</th>
<th>Lee</th>
<th>Stephenson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau</td>
<td>Livingston</td>
<td>Tazewell</td>
</tr>
<tr>
<td>Carroll</td>
<td>Logan</td>
<td>Vermilion</td>
</tr>
<tr>
<td>Clinton</td>
<td>Macon</td>
<td>Wabash</td>
</tr>
<tr>
<td>Coles</td>
<td>Macoupin</td>
<td>Warren</td>
</tr>
<tr>
<td>DeWitt</td>
<td>Madison</td>
<td>Will</td>
</tr>
<tr>
<td>Douglas</td>
<td>McDonough</td>
<td></td>
</tr>
<tr>
<td>Effingham</td>
<td>McLean</td>
<td></td>
</tr>
<tr>
<td>Ford</td>
<td>Mercer</td>
<td></td>
</tr>
<tr>
<td>Fulton</td>
<td>Monroe</td>
<td></td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Grundy  Morgan
Henry    Moultrie
Iroquois Peoria
Jackson  Piatt
Jo Daviess Putnam
Knox     Rock Island
LaSalle  Sangamon
         St. Clair

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN</th>
<th>CHILD OR CHILDREN ONLY</th>
</tr>
</thead>
<tbody>
<tr>
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<td>18</td>
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</table>

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days)

Section 112.254 Payment Levels in Group III Counties

EMERGENCY

a) The following Payment Levels are established for Group III Counties.
DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

b) The counties included in Group III are:

<table>
<thead>
<tr>
<th>Group</th>
<th>Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>III</td>
<td>Alexander Edgar Jasper Montgomery Shelby</td>
</tr>
<tr>
<td></td>
<td>Bond Edwards Jefferson Perry Stark</td>
</tr>
<tr>
<td></td>
<td>Brown Fayette Jersey Pike Union</td>
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<tr>
<td></td>
<td>Calhoun Franklin Johnson Pope Washington</td>
</tr>
<tr>
<td></td>
<td>Cass Gallatin Lawrence Pulaski Wayne</td>
</tr>
<tr>
<td></td>
<td>Christian Greene Marion Randolph White</td>
</tr>
<tr>
<td></td>
<td>Clark Hamilton Marshall Richland Williamson</td>
</tr>
<tr>
<td></td>
<td>Clay Hancock Mason Saline</td>
</tr>
<tr>
<td></td>
<td>Crawford Hardin Massac Schuyler</td>
</tr>
<tr>
<td></td>
<td>Cumberland Henderson Menard Scott</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN</th>
<th>CHILD OR CHILDREN ONLY</th>
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</thead>
<tbody>
<tr>
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</tbody>
</table>

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part**: General Assistance

2) **Code Citation**: 89 Ill. Adm. Code 114

3) **Section Numbers**: Emergency Action:
   - 114.351 Amendment
   - 114.352 Amendment
   - 114.353 Amendment

4) **Statutory Authority**: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13]

5) **Effective date of amendments**: July 1, 2008

6) **If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire**: These emergency amendments will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.

7) **Date filed with the Index Department**: June 25, 2008

8) **A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Reason for Emergency**: This emergency rulemaking is necessary to address the hardship of the economic decline placed on this population whose current income standard is below 40% of the Federal Poverty Level.

10) **A Complete Description of the Subject and Issues Involved**: This rulemaking increases the General Assistance Family and Children Assistance Payment Levels. As a result, customers will realize an increase in their available income as the increased Payment Levels will be used to determine their monthly grant amount.

11) **Are there any other proposed rulemakings pending on this Part?** No

12) **Statement of Statewide Policy Objectives**: This rulemaking does not create or expand a State mandate.

13) **Information and questions regarding these emergency amendments shall be directed to:**
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

The full text of the Emergency Amendments begins on the next page:
### DEPARTMENT OF HUMAN SERVICES

**NOTICE OF EMERGENCY AMENDMENTS**

**TITLE 89: SOCIAL SERVICES**

**CHAPTER IV: DEPARTMENT OF HUMAN SERVICES**

**SUBCHAPTER b: ASSISTANCE PROGRAMS**

**PART 114**

**GENERAL ASSISTANCE**

**SUBPART A: GENERAL PROVISIONS**

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<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>114.1</td>
<td>Description of the Assistance Program</td>
</tr>
<tr>
<td>114.2</td>
<td>Determination of Not Employable</td>
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<tr>
<td>114.3</td>
<td>Advocacy Program for Persons Receiving State Transitional Assistance</td>
</tr>
<tr>
<td>114.5</td>
<td>Incorporation By Reference</td>
</tr>
</tbody>
</table>

**SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>114.9</td>
<td>Client Cooperation</td>
</tr>
<tr>
<td>114.10</td>
<td>Citizenship</td>
</tr>
<tr>
<td>114.20</td>
<td>Residence</td>
</tr>
<tr>
<td>114.30</td>
<td>Age</td>
</tr>
<tr>
<td>114.40</td>
<td>Relationship</td>
</tr>
<tr>
<td>114.50</td>
<td>Living Arrangement</td>
</tr>
<tr>
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<td>Social Security Numbers</td>
</tr>
<tr>
<td>114.60</td>
<td>Work Registration Requirements (Outside City of Chicago only)</td>
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<td>114.61</td>
<td>Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.62</td>
<td>Job Service Registration (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.63</td>
<td>Failure to Maintain Current Job Service Registration (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.64</td>
<td>Responsibility to Seek Employment (Outside City of Chicago only)</td>
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<tr>
<td>114.70</td>
<td>Initial Employment Expenses (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.80</td>
<td>Downstate General Assistance Work and Training Programs</td>
</tr>
<tr>
<td>114.85</td>
<td>Downstate General Assistance – Food Stamps Employment and Training Pilot Project</td>
</tr>
<tr>
<td>114.90</td>
<td>Work and Training Programs</td>
</tr>
<tr>
<td>114.100</td>
<td>General Assistance Jobs Program (Repealed)</td>
</tr>
<tr>
<td>114.101</td>
<td>Persons Ineligible for TANF Due to Time Limits</td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

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Section
114.108 Project Advance (Repealed)
114.109 Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
114.110 Project Advance Cooperation Requirements of Adjudicated Fathers (Repealed)
114.111 Project Advance Sanctions (Repealed)
114.113 Project Advance Good Cause for Failure to Comply (Repealed)
114.115 Individuals Exempt From Project Advance (Repealed)
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114.120 Employment and Training Requirements
114.121 Persons Required to Participate in Project Chance (Repealed)
114.122 Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123 Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124 Employment and Training Participation/Cooperation Requirements (Repealed)
114.125 Employment and Training Program Orientation (Repealed)
114.126 Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127 Employment and Training Program Components (Repealed)
114.128 Employment and Training Sanctions (Repealed)
114.129 Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.130 Employment and Training Supportive Services (Repealed)
114.135 Conciliation and Fair Hearings (Repealed)
114.140 Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

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114.201 Budgeting Unearned Income
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DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

114.203 Initial Receipt of Unearned Income
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114.210 Exempt Unearned Income
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114.221 Unearned Income In-Kind
114.222 Earmarked Income
114.223 Lump-Sum Payments
114.224 Protected Income
114.225 Earned Income
114.226 Budgeting Earned Income
114.227 Budgeting Earned Income of Applicants
114.228 Initial Employment
114.229 Termination of Employment
114.230 Exempt Earned Income
114.235 Recognized Employment Expenses
114.240 Income From Work/Study/Training Program (Repealed)
114.241 Earned Income From Self-Employment
114.242 Earned Income From Roomer and Boarder
114.243 Earned Income From Rental Property
114.244 Earned Income In-Kind
114.245 Payments from the Illinois Department of Children and Family Services
114.246 Budgeting Earned Income for Contractual Employees
114.247 Budgeting Earned Income for Non-contractual School Employees
114.250 Assets
114.251 Exempt Assets
114.252 Asset Disregards
114.260 Deferral of Consideration of Assets (Repealed)
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114.280 Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section
114.350 Payment Levels
114.351 Payment Levels in Group I Counties
114.352 Payment Levels in Group II Counties
114.353 Payment Levels in Group III Counties
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

| EMERGENCY |

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Section | Description |
--- | --- |
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114.401 | Eligibility of Strikers |
114.402 | Special Needs Authorizations (Repealed) |
114.403 | Institutional Status |
114.404 | Budgeting |
114.405 | Budgeting Schedule |
114.406 | Limitation on Amount of General Assistance to Recipients from Other States (Repealed) |
114.408 | Responsibility of Sponsors of Non-citizens Entering the Country On or After 8/22/96 |
114.420 | Redetermination of Eligibility |
114.430 | Extension of Medical Assistance Due to Increased Income from Employment |
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114.442 | Attorney's Fees for SSI Applicants |

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Section | Description |
--- | --- |
114.450 | Child Care (Repealed) |
114.452 | Child Care Eligibility (Repealed) |
114.454 | Qualified Provider (Repealed) |
114.456 | Notification of Available Services (Repealed) |
114.458 | Participant Rights and Responsibilities (Repealed) |
114.462 | Additional Service to Secure or Maintain Child Care Arrangements (Repealed) |
114.464 | Rates of Payment for Child Care (Repealed) |
114.466 | Method of Providing Child Care (Repealed) |

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Section | Description |
--- | --- |
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114.504 | Duration of Eligibility for Transitional Child Care (Repealed) |
114.506 | Loss of Eligibility for Transitional Child Care (Repealed) |
114.508 | Qualified Provider (Repealed) |
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

114.510 Notification of Available Services (Repealed)
114.512 Participant Rights and Responsibilities (Repealed)
114.514 Child Care Overpayments and Recoveries (Repealed)
114.516 Fees for Service for Transitional Child Care (Repealed)
114.518 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS


SUBPART F: PAYMENT AMOUNTS

Section 114.351 Payment Levels in Group I Counties

EMERGENCY

a) The following payment levels are established for the GA Program.

b) The counties included in Group I are:

<table>
<thead>
<tr>
<th>Boone</th>
<th>Kane</th>
<th>Ogle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Champaign</td>
<td>Kankakee</td>
<td>Whiteside</td>
</tr>
<tr>
<td>Cook</td>
<td>Kendall</td>
<td>Winnebago</td>
</tr>
<tr>
<td>DeKalb</td>
<td>Lake</td>
<td>Woodford</td>
</tr>
<tr>
<td>Dupage</td>
<td>McHenry</td>
<td></td>
</tr>
</tbody>
</table>

1) Family and Children Assistance Case Payment Levels
DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVE AND CHILD OR CHILDREN CURRENT</th>
<th>CHILD ONLY CURRENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>224,223</td>
<td>117,407</td>
</tr>
<tr>
<td>2</td>
<td>320,292</td>
<td>231,244</td>
</tr>
<tr>
<td>3</td>
<td>434,396</td>
<td>286,264</td>
</tr>
<tr>
<td>4</td>
<td>476,435</td>
<td>367,335</td>
</tr>
<tr>
<td>5</td>
<td>557,509</td>
<td>436,398</td>
</tr>
<tr>
<td>6</td>
<td>626,572</td>
<td>468,427</td>
</tr>
<tr>
<td>7</td>
<td>660,603</td>
<td>504,460</td>
</tr>
<tr>
<td>8</td>
<td>694,634</td>
<td>539,492</td>
</tr>
<tr>
<td>9</td>
<td>730,667</td>
<td>578,528</td>
</tr>
<tr>
<td>10</td>
<td>769,202</td>
<td>619,565</td>
</tr>
<tr>
<td>11</td>
<td>810,240</td>
<td>662,605</td>
</tr>
<tr>
<td>12</td>
<td>852,778</td>
<td>706,645</td>
</tr>
<tr>
<td>13</td>
<td>898,829</td>
<td>754,689</td>
</tr>
<tr>
<td>14</td>
<td>945,863</td>
<td>804,734</td>
</tr>
<tr>
<td>15</td>
<td>995,909</td>
<td>855,784</td>
</tr>
<tr>
<td>16</td>
<td>1,048,957</td>
<td>912,833</td>
</tr>
<tr>
<td>17</td>
<td>1,103,400</td>
<td>969,885</td>
</tr>
<tr>
<td>18</td>
<td>1,162,061</td>
<td></td>
</tr>
</tbody>
</table>

2) The Transitional Assistance case payment level in Group I Counties is $100.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10622, effective July 1, 2008, for a maximum of 150 days)

Section 114.352 Payment Levels in Group II Counties

a) The following payment levels are established for the GA Program in Group II Counties.

b) The counties included in Group II are:

<table>
<thead>
<tr>
<th>Adams</th>
<th>Lee</th>
<th>St. Clair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau</td>
<td>Livingston</td>
<td>Stephenson</td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Carroll              Logan              Tazewell
Clinton             Macon              Vermilion
Coles               Macoupin           Wabash
DeWitt              Madison            Warren
Douglas             McDonough         Will
Effingham           McLean
Ford                Mercer
Fulton              Monroe
Grundy              Morgan
Henry               Moultrie
Iroquois            Peoria
Jackson             Piatt
Jo Daviess          Putnam
Knox                Rock Island
LaSalle             Sangamon

1) Family and Children Assistance Case Payment Levels

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVE AND CHILD OR CHILDREN CURRENT</th>
<th>CHILD OR CHILDREN ONLY CURRENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>234244</td>
<td>112402</td>
</tr>
<tr>
<td>2</td>
<td>309282</td>
<td>223204</td>
</tr>
<tr>
<td>3</td>
<td>419383</td>
<td>278254</td>
</tr>
<tr>
<td>4</td>
<td>463423</td>
<td>358327</td>
</tr>
<tr>
<td>5</td>
<td>542495</td>
<td>424387</td>
</tr>
<tr>
<td>6</td>
<td>608555</td>
<td>457447</td>
</tr>
<tr>
<td>7</td>
<td>641585</td>
<td>491448</td>
</tr>
<tr>
<td>8</td>
<td>676647</td>
<td>528482</td>
</tr>
<tr>
<td>9</td>
<td>712650</td>
<td>565516</td>
</tr>
<tr>
<td>10</td>
<td>749684</td>
<td>603551</td>
</tr>
<tr>
<td>11</td>
<td>787719</td>
<td>645889</td>
</tr>
<tr>
<td>12</td>
<td>829757</td>
<td>689629</td>
</tr>
<tr>
<td>13</td>
<td>874298</td>
<td>728665</td>
</tr>
<tr>
<td>14</td>
<td>919839</td>
<td>777740</td>
</tr>
<tr>
<td>15</td>
<td>967883</td>
<td>828756</td>
</tr>
<tr>
<td>16</td>
<td>1,018930</td>
<td>881805</td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

2) The Transitional Assistance case payment level in Group II Counties is $100.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10622, effective July 1, 2008, for a maximum of 150 days)

Section 114.353 Payment Levels in Group III Counties

a) The following payment levels are established for the GA Program in Group III Counties.

b) The counties included in Group III are:

<table>
<thead>
<tr>
<th>Alexander</th>
<th>Edgar</th>
<th>Jasper</th>
<th>Montgomery</th>
<th>Shelby</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bond</td>
<td>Edwards</td>
<td>Jefferson</td>
<td>Perry</td>
<td>Stark</td>
</tr>
<tr>
<td>Brown</td>
<td>Fayette</td>
<td>Jersey</td>
<td>Pike</td>
<td>Union</td>
</tr>
<tr>
<td>Calhoun</td>
<td>Franklin</td>
<td>Johnson</td>
<td>Pope</td>
<td>Washington</td>
</tr>
<tr>
<td>Cass</td>
<td>Gallatin</td>
<td>Lawrence</td>
<td>Pulaski</td>
<td>Wayne</td>
</tr>
<tr>
<td>Christian</td>
<td>Greene</td>
<td>Marion</td>
<td>Randolph</td>
<td>White</td>
</tr>
<tr>
<td>Clark</td>
<td>Hamilton</td>
<td>Marshall</td>
<td>Richland</td>
<td>Williamson</td>
</tr>
<tr>
<td>Clay</td>
<td>Hancock</td>
<td>Mason</td>
<td>Saline</td>
<td></td>
</tr>
<tr>
<td>Crawford</td>
<td>Hardin</td>
<td>Massac</td>
<td>Schuyler</td>
<td></td>
</tr>
<tr>
<td>Cumberland</td>
<td>Henderson</td>
<td>Menard</td>
<td>Scott</td>
<td></td>
</tr>
</tbody>
</table>

1) Family and Children Assistance Case Payment Levels

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVE AND CHILD OR CHILDREN CURRENT</th>
<th>CHILD OR CHILDREN ONLY CURRENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>199182</td>
<td>10899</td>
</tr>
<tr>
<td>2</td>
<td>296270</td>
<td>216497</td>
</tr>
<tr>
<td>3</td>
<td>401366</td>
<td>273249</td>
</tr>
<tr>
<td>4</td>
<td>447408</td>
<td>347347</td>
</tr>
</tbody>
</table>
2) The Transitional Assistance case payment level in Group III Counties is $100.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 10622, effective July 1, 2008, for a maximum of 150 days)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

1) **Heading of the Part**: Viral Hemorrhagic Septicemia Virus

2) **Code Citation**: 17 Ill. Adm. Code 875

3) **Section Numbers**: Emergency Action:
   - 875.10  New Section
   - 875.20  New Section
   - 875.30  New Section
   - 875.40  New Section
   - 875.50  New Section


5) **Effective Date of Emergency Rules**: June 30, 2008

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: These emergency rules will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.

7) **Date filed with the Index Department**: June 30, 2008

8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) **Reason for Emergency**: VHS can cause devastating fish kills in certain sportfish species. It has been spreading throughout the Great Lakes region and was recently isolated in the Illinois waters of Lake Michigan at Winthrop Harbor. Fish can be infected by direct contact with other infected fish, by consuming infected prey, or from contact with water which contains the virus. There is no vaccine for VHS, so control methods rely upon prevention techniques. It is necessary that the State of Illinois take action to immediately and decisively protect its inland waters from VHS to the extent possible. The urgency of this situation is amplified given that a significant amount of Lake Michigan water enters the Illinois River through the Chicago Sanitary and Ship Canal.
A Complete Description of the Subjects and Issues Involved: The USDA – APHIS has taken action to restrict movements of fish from several states and requires testing of others to ensure that the disease is not spread. Several adjacent states have enacted rules to minimize transfer of VHS to new waters. During recent sampling in Milwaukee, WI (June 5 and June 13) positive samples were found in the southern basin of Lake Michigan. IDNR samples of Round goby and Rock bass taken June 10 indicated presence of the virus in the Illinois waters of Lake Michigan during routine surveillance.

While IDNR will ensure that operations remain much the same, some adjustments will be made. This rule changes requirements for fish stocking and transport in the State of Illinois:

All fish imported from affected areas (currently the 8 Great Lakes states) must be certified as free of VHS.

All susceptible species for stocking must be certified VHS free regardless of their point of origin (including both intra- and inter-state shipments).

Use of wild-trapped fishes from within the state as bait will be restricted to the waters where legally captured.

Wild-trapped minnows and other wild-trapped species must be certified VHS-free, or originate from west of the Mississippi River.

There will also be some changes required by recreational anglers and boaters. Statewide, users will be requested to follow the "Stop Aquatic Hitchhikers" campaign guidelines. However, the following activities will be made mandatory:

Eliminate natural water from all equipment when leaving a body of water.

Empty and drain all bait buckets, livewells, baitwells, bilges, etc. or any other compartment capable of holding natural waters when leaving a body of water.

Do not remove VHS-susceptible species from any waters without permission of the Department (a fisherman must kill and ice his catch).

Are there any proposed rules pending on this Part? The Department plans to submit proposed rules to replace this emergency in the near future.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

12) **Statement of Statewide Policy Objective**: This rulemaking will not affect units of local governments.

13) **Information and questions regarding these emergency rules shall be directed to**:

    Jack Price, Legal Counsel
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL   62702-1271

    217/782-1809

The full text of the Emergency Rules begins on the next page:
Section 875.10 Definitions

"Affected Regions" – those areas designated by USDA-APHIS as Affected or At-Risk Regions. Currently, these are the U.S. states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin and the Canadian Provinces of Ontario and Quebec.

"Aquatic Life Farm" – property containing any or a combination of levee ponds, a strip mine lake or other type of lake maintained for the exclusive purpose of
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

rearing aquatic life for harvest and resale.

"Baitfish" – live or dead species of fish, or parts of fish including roe, that are used by anglers to catch or attempt to catch fish.


"Department" – the Illinois Department of Natural Resources.

"Farm-Raised" – any species of aquatic life that has been reared entirely in captivity on an aquatic life farm.

"Fish Health Inspection Report" or "FHIR" – official document reporting health status of inspected fish issued by a trained, qualified fish health professional in accordance with BlueBook or OIE standards.

"Lot" – a population of fish as defined in the BlueBook.


"Private Waters" – waters of the State of Illinois that are wholly upon properties held in private ownership and contained on the land of its owners.

"Public Waters" – all other waters of the State of Illinois.

"Resident" – a person who actually resides in Illinois. For businesses, resident means at least 51% owned by Illinois residents and organized under the laws of Illinois.

"Specific Pathogen Free" or "SPF" – a lot of fish that have tested negative for VHS.

"VHSv" – Viral hemorrhagic septicemia virus. For purposes of this Part, VHSv and VHS (the disease caused by the virus) are considered synonymous.

"Wild-Trapped" – any species of aquatic life that has any portion of its life history not under direct control of an aquatic life farm (i.e., those that are not farm-
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

raised).

Section 875.20 Susceptible Species

a) For purposes of this Part, susceptible species are:

1) those species designated by USDA-APHIS in the Federal Order update of
   April 2, 2008;

2) hybrids (offspring) of listed species for which both parent species are
   listed;

3) all species (including those commonly used as bait) that originate from
   affected regions; and

4) wild-trapped minnows and other wild-trapped species (including those
   commonly used as bait) that originate east of the Mississippi River.

b) The current list of susceptible species from the APHIS Federal Order is as
   follows:

<table>
<thead>
<tr>
<th>Species Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black crappie</td>
<td>Pomoxis nigromaculatus</td>
</tr>
<tr>
<td>Bluegill</td>
<td>Lepomis macrochirus</td>
</tr>
<tr>
<td>Bluntnose minnow</td>
<td>Pimephales notatus</td>
</tr>
<tr>
<td>Brown bullhead</td>
<td>Ictalurus nebulosus</td>
</tr>
<tr>
<td>Brown trout</td>
<td>Salmo trutta</td>
</tr>
<tr>
<td>Burbot</td>
<td>Lota lota</td>
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<tr>
<td>Channel catfish</td>
<td>Ictalurus punctatus</td>
</tr>
<tr>
<td>Chinook salmon</td>
<td>Oncorhynchus tshawytscha</td>
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<tr>
<td>Emerald shiner</td>
<td>Notropis atherinoides</td>
</tr>
<tr>
<td>Freshwater drum</td>
<td>Aplodinotus grunniens</td>
</tr>
<tr>
<td>Gizzard shad</td>
<td>Dorosoma cepedianum</td>
</tr>
<tr>
<td>Lake whitefish</td>
<td>Coregonus clupeaformis</td>
</tr>
<tr>
<td>Largemouth bass</td>
<td>Micropterus salmoides</td>
</tr>
<tr>
<td>Muskellunge</td>
<td>Esox masquinongy</td>
</tr>
<tr>
<td>Shorthead redhorse</td>
<td>Moxostoma macrolepidotum</td>
</tr>
<tr>
<td>Northern Pike</td>
<td>Esox lucius</td>
</tr>
<tr>
<td>Pumpkinseed</td>
<td>Lepomis gibbosus</td>
</tr>
</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

Rainbow trout  *Onchorhynchus mykiss*
Rock bass  *Ambloplites rupestris*
Round goby  *Neogobius melanostomus*
Silver redhorse  *Moxostoma anisurum*
Smallmouth bass  *Micropterus dolomieu*
Spottail shiner  *Notropis hudsonius*
Trout Perch  *Percopsis omiscomaycus*
Walleye  *Sander vitreus*
White bass  *Morone chrysops*
White perch  *Morone americana*
Yellow perch  *Perca flavescens*

c) Examples:

1) Hybrid bluegill (bluegill X green sunfish) are not considered susceptible species as only one parent species is listed.

2) Tiger muskellunge (muskellunge X northern pike) are considered susceptible species because both parent species are listed.

3) All wild-trapped minnows are subject to certification standards if they originate from eastern states.

4) Farm-raised minnows from affected regions (defined in Section 875.10) are subject to testing.

5) Farm-raised minnows from Arkansas or Missouri are not subject to testing.

d) The official list of VHS-susceptible species as identified by the Department will be available from the Department and posted on the Fisheries Division website (http://dnr.state.il.us/admin/systems/fishing.htm). Updates to the list of susceptible fish species will be made as necessary, and notice shall be given by issuing a press release, by publication in the official State newspaper, and by such other means as the Department determines are reasonably likely to inform the public, including notification on the Department website.

Section 875.30   Permits

EMERGENCY
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

a) Application Requirements
Permits to import live VHS-susceptible species may be issued by the Department of Natural Resources in accordance with Sections 10-110 and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/10-110, 20-100] for persons or businesses holding an Aquaculture Permit, Aquatic Life Dealer's License or Minnow Dealer's License, or research or educational institutions for scientific purposes, under the following provisions:

1) Applicants wishing to import live VHS-susceptible species must make application to the Department in writing, at the following address:

Illinois Department of Natural Resources
Region V Office
VHS-Susceptible Species Permit
11731 State Hwy. 37
Benton IL 62812

2) The Department may accept applications via fax or email if time permits and it is deemed to be in the best interest of the Department to do so.

3) Applications must contain the following minimum information:

A) name, address and telephone number of the applicant, including the business, research or educational institution;

B) the common and scientific name, size and total number (or pounds) of each VHS-susceptible species for which a permit is requested;

C) date of anticipated imports and number of shipments;

D) source of supply, including name, address and telephone number of the supplier; and

E) any other information requested by the Department (e.g., route of transportation, holding facility location, stocking locations, disposition of animals and federal permit, if required).

b) Issuance Criteria
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

The Department shall consider the following in determining whether to issue a permit to import live VHS-susceptible species:

1) whether the request is for persons or businesses holding an Aquaculture Permit, Aquatic Life Dealer's License or Minnow Dealer's License, or research or educational institutions for scientific purposes;

2) whether the supplier of the fish stocks has an acceptable Fish Health Inspection Report on file with the Department;

3) for importation of minnows and species commonly used as bait, whether the supplier/importer has submitted an officially recognized management plan (Hazard Analysis and Critical Control Points (HACCP)/Best Management Practices (BMP)) to minimize transfer of exotic species and potential pathogens; and

4) whether the Department approves of the stocking locations based upon the potential risk to the fishery resource of the State.

c) Permit Conditions
Permits issued to import live VHS-susceptible species shall be subject to the following conditions:

1) All specimens approved under the permit must be imported only to the facilities, and at the location approved on the permit.

2) A person in possession of VHS-susceptible species, at all times during shipment and stocking, shall allow the Department, its agents or authorized employees to inspect the shipment and pertinent records to ensure compliance with this Part.

3) Permits issued under this Part shall be valid only for the time periods and under the provisions designated by the Department on the permit or accompanying letter.

4) All importers shall maintain records documenting disposition of all VHS-susceptible species for a minimum of 2 years from date of disposition.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

5) It is unlawful for any person to violate any condition stipulated on the permit or accompanying letter issued by the Department. Violation of any special condition will result in revocation of the permit.

6) Shipments found in violation of this Part shall be subject to confiscation, quarantine and/or seizure. Disposition of specimens confiscated, placed under quarantine (including conditions under which they may be sold, traded, bartered or transferred), or seized under this Part shall be as designated by the Department.

d) Permit Exceptions
The permits required by subsection (a) do not apply to:

1) Any licensed veterinarian, agent of a veterinary clinic, fish pathologist, or fish health inspector recognized by the American Fisheries Society providing diagnostic services subject to all of the following conditions:

   A) the fish are in transit to an approved research or diagnostic laboratory authorized by the Department to work with VHS;

   B) the fish are accompanied by a valid Form VS 1-27 (Permit for Movement of Restricted Animals) issued by an APHIS area office; and

   C) effluent and carcasses shall be considered medical waste and shall be disposed of at the receiving research or diagnostic facility according to all applicable EPA and State regulatory criteria.

2) Any person moving fish to a slaughter facility subject to all of the following conditions:

   A) the fish are for human consumption;

   B) the fish are accompanied by a valid Form VS 1-27 (Permit for Movement of Restricted Animals) issued by an APHIS area office;

   C) the fish are being transported to a State-inspected slaughter facility that:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

i) must discharge waste water to a municipal sewage system that includes waste water disinfection; or

ii) may discharge to either a non-discharging settling pond or a settling pond that disinfects according to all applicable EPA and State regulatory criteria; and

D) offal, including carcasses, from the slaughter facility must be rendered or composted.

3) Persons involved in catch and release fishing activities in which VHS-susceptible fish will be released into the same water body where caught, except VHS-susceptible species used or intended to be used as bait.

4) Any shippers in interstate transport for lawful commercial purposes who do not buy, sell, barter, trade, transfer, loan or offer to do so in Illinois may transport live VHS-susceptible species across Illinois. Under no circumstances shall an interstate transporter:

A) transfer any VHS-susceptible species from one container to another; or

B) exchange or discharge water or other materials from a container containing VHS-susceptible species without first obtaining written permission from the Department.

5) Persons having a Salmonid Import Permit issued in accordance with 17 Ill. Adm. Code 870, provided that:

A) FHIR is issued in accordance with Section 875.40(a); and

B) lot inspections (60 fish each) were tested according to the Standard Procedures for Aquatic Animal Health Inspections section of the BlueBook.

Section 875.40  Fish Health Inspection Reports

EMERGENCY

a) Official FHIR must be issued by and received directly from one of the following:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

1) the state competent authority for fish health in the issuing state;

2) a Department approved veterinarian offering diagnostic services for aquatic animals; or

3) a Department approved laboratory for certifying lots of fish as VHS-free.

b) It is the responsibility of the importer and/or supplier to arrange for appropriate delivery of FHIR.

c) FHIR must contain the suppliers contact information, water supply, lot designation, original egg or fry source, age of fish, number in lot, size, pathogens tested, numbers of individuals sampled, results, and original signature of the inspector.

d) FHIR and supporting documentation must state that fishes were sampled and tested negative for VHS virus in accordance with procedures set forth in either:

1) Standard Procedures for Aquatic Animal Health Inspections section of the BlueBook; or


Section 875.50  Unlawful Acts/Penalties

EMERGENCY

a) It shall be unlawful to:

1) import VHS-susceptible species into the State of Illinois without a VHS-Susceptible Species Permit issued by the Department;

2) stock VHS-susceptible species into public waters of the State, unless that stocking location is approved in writing by the Department;

3) remove live VHS-susceptible species from the waters where legally taken without first securing permission from Department fish health authorities;
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY RULES

4) remove natural water from waters of the State via bait bucket, livewell, baitwell, bilge, etc., or any other method without first securing permission from Department fish health authorities;

5) remove any watercraft, boat, boat trailer or other equipment from waters of the State without emptying and draining any bait bucket, livewell, baitwell, bilge, etc., or any other compartment capable of holding natural waters; and

6) use wild-trapped fishes as bait within the State of Illinois, other than in the waters where they were legally taken.

b) Violation Classifications

1) Violation of subsections (a)(1) and (3) shall be a Class A misdemeanor if the value of the aquatic life is less than $300, and a Class 3 felony if the value of the aquatic life is $300 or more. Multiple transactions within a 90-day period shall be treated as a single offense.

2) Violation of subsections (a)(2), (4), (5), (6) and (7) shall be a petty offense.

c) Revocation/Suspension

1) Any violations of the Fish and Aquatic Life Code or administrative rules of the Department may result in revocation of licenses and permits, as well as suspension of privileges for up to five years.

2) Violation of any conditions of a permit issued under this Part shall result in cancellation of the permit.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Hospital Services

2) **Code Citation:** 89 Ill. Adm. Code 148

3) **Section Numbers:**

<table>
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<tr>
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4) **Date Notice of Proposed Amendments Published in the Illinois Register:** June 6, 2008; 32 Ill. Reg. 8218
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

5) **Reason for the Withdrawal:** The proposed amendments to Part 148 revise certain provisions of several Sections and repeal several Sections associated with the current Hospital Assessment program. The proposed changes regarding the Hospital Assessment program, beginning July 1, 2008, provide funding for Medicaid reimbursable hospital services provided on and after that date. These changes are dependant upon the federal government. In order to avoid confusion, the Department withdraws its original proposal and will resubmit another rule upon gaining such federal approval.
NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: jcar@ilga.gov  
Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Local Government Health Plan (80 Ill. Adm. Code 2160)  
   -First Notice Published: 32 Ill. Reg. 6820 – 4/25/08  
   -Expiration of Second Notice: 8/1/08

Commerce Commission

2. Rules of Practice (83 Ill. Adm. Code 200)  
   -First Notice Published: 31 Ill. Reg. 16616 – 12/21/08  
   -Expiration of Second Notice: 8/1/08
   - First Notice Published: 32 Ill. Reg. 6173 – 4/18/08
   - Expiration of Second Notice: 8/8/08

   - First Notice Published: 31 Ill. Reg. 2857 – 2/29/08
   - Expiration of Second Notice: 8/1/08

5. Safety Relocation Towing (92 Ill. Adm. Code 1715)
   - First Notice Published: 32 Ill. Reg. 1189 – 2/1/08
   - Expiration of Second Notice: 7/17/08

Education

   - First Notice Published: 32 Ill. Reg. 4591 – 4/4/08
   - Expiration of Second Notice: 8/10/08

7. Early Childhood Block Grant (23 Ill. Adm. Code 235)
   - First Notice Published: 32 Ill. Reg. 4684 – 4/4/08
   - Expiration of Second Notice: 8/10/08

   - First Notice Published: 32 Ill. Reg. 4678 – 4/4/08
   - Expiration of Second Notice: 8/10/08

Emergency Management Agency

9. Certification of Individuals to Perform Industrial Radiography (32 Ill. Adm. Code 405)
   - First Notice Published: 32 Ill. Reg. 4290 – 3/28/08
   - Expiration of Second Notice: 7/18/08

Employment Security

    - First Notice Published: 32 Ill. Reg. 6999 – 5/2/08
    - Expiration of Second Notice: 8/6/08

11. Payment of Benefits (56 Ill. Adm. Code 2830)
JOINT COMMITTEE ON ADMINISTRATIVE RULES
JULY AGENDA

-First Notice Published:   32 Ill. Reg. 7005 – 5/2/08
-Expiration of Second Notice:  8/6/08

Financial and Professional Regulation

12. Corrective Orders (50 Ill. Adm. Code 1250)
   -First Notice Published:   32 Ill. Reg. 2633 – 2/22/08
   -Expiration of Second Notice:  8/2/08

   -First Notice Published:   32 Ill. Reg. 4486 – 4/4/08
   -Expiration of Second Notice:  8/3/08

Gaming Board

   -First Notice Published:   32 Ill. Reg. 3136 – 3/7/08
   -Expiration of Second Notice:  7/18/08

Human Rights

15. Discrimination Involving Credit (38 Ill. Adm. Code 800)
   -First Notice Published:   32 Ill. Reg. 6894 – 4/25/08
   -Expiration of Second Notice:  7/25/08

   -First Notice Published:   32 Ill. Reg. 6916 – 4/25/08
   -Expiration of Second Notice:  7/25/08

17. Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)
   -First Notice Published:   32 Ill. Reg. 6901 – 4/25/08
   -Expiration of Second Notice:  7/25/08

Labor

18. Employee Classification (56 Ill. Adm. Code 240)
   -First Notice Published:   32 Ill. Reg. 309 – 1/11/08
   -Expiration of Second Notice:  7/27/08

Public Health
19. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
   -First Notice Published: 32 Ill. Reg. 3416 – 3/7/08
   -Expiration of Second Notice: 7/20/08

Racing Board

   -First Notice Published: 32 Ill. Reg. 7255 – 5/9/08
   -Expiration of Second Notice: 8/13/08

   -First Notice Published: 32 Ill. Reg. 7027 – 5/2/08
   -Expiration of Second Notice: 8/1/08

22. Exacta Double (11 Ill. Adm. Code 320)
   -First Notice Published: 32 Ill. Reg. 7032 – 5/2/08
   -Expiration of Second Notice: 8/1/08

Revenue

23. Income Tax (86 Ill. Adm. Code 100)
   -First Notice Published: 32 Ill. Reg. 5936 – 4/11/08
   -Expiration of Second Notice: 8/25/08

24. Income Tax (86 Ill. Adm. Code 100)
   -First Notice Published: 32 Ill. Reg. 6923 – 4/25/08
   -Expiration of Second Notice: 7/23/08

25. Income Tax (86 Ill. Adm. Code 100)
   -First Notice Published: 32 Ill. Reg. 7036 – 5/2/08
   -Expiration of Second Notice: 8/7/08

26. Income Tax (86 Ill. Adm. Code 100)
   -First Notice Published: 32 Ill. Reg. 7257 – 5/9/08
   -Expiration of Second Notice: 8/7/08

   -First Notice Published: 32 Ill. Reg. 6452 – 4/18/08
   -Expiration of Second Notice: 7/20/08
   -First Notice Published: 32 Ill. Reg. 5956 – 4/11/08
   -Expiration of Second Notice: 7/20/08

   Teachers' Retirement System

29. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
   -First Notice Published: 32 Ill. Reg. 5972 – 4/11/08
   -Expiration of Second Notice: 8/2/08

EMERGENCY RULEMAKINGS

   Public Health

    -Notice Published: 32 Ill. Reg. 8778 – 6/13/08

    -Notice Published: 32 Ill. Reg. 9055 – 6/20/08

   Revenue

32. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
    -Notice Published: 32 Ill. Reg. 8785 – 6/13/08

33. Use Tax (86 Ill. Adm. Code 150)
    -Notice Published: 32 Ill. Reg. 8806 – 6/13/08

PEREMPTORY RULEMAKING

   Central Management Services

34. Pay Plan (80 Ill. Adm. Code 310)
    -Notice Published: 32 Ill. Reg. 9360 – 6/27/08

EXEMPT RULEMAKINGS

   Emergency Management Agency
   -Proposed Date: 3/14/08
   -Adopted Date: 6/27/08

36. Medical Use of Radioactive Material (32 Ill. Adm. Code 335)
   -Proposed Date: 3/14/08
   -Adopted Date: 6/27/08
SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 24, 2008 through June 30, 2008 and have been scheduled for review by the Committee at its July 15, 2008 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.

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<td>5/2/08 32 Ill. Reg. 7036</td>
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<td>State Board of Education, Early Childhood Block Grant (23 Ill. Adm. Code 235)</td>
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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY
SECOND NOTICES RECEIVED

7255
National Health Center Week

WHEREAS, Federally Qualified Health Centers are nonprofit, community-owned and operated health providers serving uninsured and medically underserved people in the State of Illinois; and

WHEREAS, Federally Qualified Health Centers expand access to affordable, high quality, cost-effective healthcare for all people and contain healthcare costs by fostering prevention and integrating the delivery of primary care with aggressive outreach, patient education, translation, and other enabling services; and

WHEREAS, Federally Qualified Health Centers have made great strides in the Illinois healthcare system specifically by maintaining high standards of accountability, demonstrating cost effectiveness and efficiency in the delivery of care, and empowering communities to address unmet health needs, reduce health disparities, and reduce preventable deaths, costly disabilities and communicable diseases; and

WHEREAS, there is a continuing need to support implementation of Federally Qualified Health Centers throughout the State of Illinois as part of Illinois’ enduring commitment to the provision of quality primary healthcare; and

WHEREAS, Health Centers promote 100 percent access and an end to health disparities to achieve healthcare for all people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 10 – 16, 2008 as NATIONAL HEALTH CENTER WEEK in Illinois, and encourage all citizens to recognize the important contributions of Federally Qualified Health Centers in safeguarding health and improving the quality of life for all people in our great state.

Issued by the Governor June 20, 2008
Filed by the Secretary of State June 27, 2008

Genealogy Day

WHEREAS, 2008 marks the 40th anniversary of the Illinois State Genealogical Society; and
Whereas, the Illinois State Genealogical Society is a non-profit, educational organization that has provided the citizens of Illinois with important information and tools to help them research and preserve their heritage; and

Whereas, in part due to the efforts of the Illinois State Genealogical Society, an increasing number of citizens and organizations are able to research and preserve information that relates to individuals, families, and groups who lived in Illinois and events that took place therein; and

Whereas, the Illinois State Genealogical Society will be holding its annual conference on October 18, 2008, as part of the series of conferences and meetings the Society holds each year to actively promote the preservation of family, local and state history:

Therefore, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 18, 2008 as Genealogy Day in Illinois in honor of the contributions made to preserving and promoting the history of the people of Illinois by the Illinois State Genealogical Society and in commemoration of its fall conference.

Issued by the Governor June 20, 2008
Filed by the Secretary of State June 27, 2008

2008-261
Hindi Day

Whereas, there are nearly two million Asian Indians in the United States; and

Whereas, the International Hindi Association was organized in the United States in 1980 to preserve and promote the Hindi language and culture; and

Whereas, Hindi is the official language of India and has become the second most spoken language in the world according to the World Almanac and Book of Facts, 2002; and

Whereas, to commemorate one's language is to commemorate one's heritage, culture and society; and

Whereas, in the third week of September, the Northeast Ohio Chapter of the International Hindi Association will hold its 8th Annual Conference; and
WHEREAS, September 14 is celebrated as Hindi Day all over India, and in many parts of the world where people of Indian descent live, to commemorate the day when the Constituent Assembly of India adopted Hindi as the nation's official language:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 14, 2008, as HINDI DAY in Illinois.

Issued by the Governor June 23, 2008
Filed by the Secretary of State June 27, 2008

2008-262
Americans With Disabilities Act Day

WHEREAS, the Americans with Disabilities Act ("ADA") passed by Congress in 1990, established a "clear and comprehensive prohibition of discrimination on the basis of disability," with disability defined as "a physical or mental impairment that substantially limits one or more of the major life activities" of an individual; and

WHEREAS, the passage of the ADA represents a major step toward protecting civil rights and improving the quality of life for persons with disabilities, persons who were often subject to discrimination and lacked federal protection; and

WHEREAS, the year 2008 marks the 18th anniversary of the ADA's civil rights guarantee for individuals with disabilities; and

WHEREAS, Illinois has a long history of protecting the rights of disabled persons, going back 29 years to the passage of the Illinois Human Rights Act (December 6, 1979), which made discrimination against any person with a "physical or mental handicap" illegal; and

WHEREAS, an estimated 2 million citizens of Illinois, or 13 percent of the state's population, according to the Census Survey conducted in 2005, were classified as having a disability; and

WHEREAS, the State of Illinois and its agencies are 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, Illinois is one of 13 states to receive the federal "Money Follows the Person" initiative which will give the elderly and persons with disabilities more control
and freedom over Medicaid services they need to live independently in their communities; and

WHEREAS, during the month of July 2008, the Illinois Department of Human Services, in cooperation with numerous other state agencies, councils, and consumers, will celebrate the anniversary of the ADA with special events in Springfield and Chicago:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 15, 2008 as AMERICANS WITH DISABILITIES ACT DAY in Illinois, and encourage all citizens to recognize the historical significance of the ADA, and in turn, do their part to ensure that people with disabilities are included in the mainstream of community life.

Issued by the Governor June 24, 2008
Filed by the Secretary of State June 27, 2008

2008-263
Illinois' Safe Schools Week

WHEREAS, every day, millions of parents throughout the United States, including the State of Illinois, send their children off to schools for an education; and

WHEREAS, while parents should not have to worry about the safety and security of their children, events such as Columbine and other recent violent acts dramatically demonstrate that dangers and threats to them are real. Consequently, our first priority is to ensure that they are not exposed to violence; and

WHEREAS, there are other menaces to our children at schools, including bullying, drugs, and theft. Accordingly, it is also our responsibility to ensure that our children are safe and secure from these and other threats and dangers; and

WHEREAS, it is not the responsibility of our educational institutions alone to address these serious issues. The safety and security of our children also depends on the active collaboration and cooperation of law enforcement and government; and

WHEREAS, only by working together can we avert violence, end bullying, minimize the proliferation of drugs, reduce theft, and resolve other problems. That is why I urge our educators, law enforcement authorities, and government leaders to collectively assess the dangers and threats to our children and then develop and implement plans and procedures to deal with them:
THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 19-25, 2008 as **ILLINOIS' SAFE SCHOOLS WEEK** to promote efforts to protect our children so that no parent has to worry about their well-being while they are learning.

Issued by the Governor June 24, 2008
Filed by the Secretary of State June 27, 2008

**2008-264**

**Elder Abuse Awareness Month**

WHEREAS, according to the Illinois Department on Aging, between four and five percent of persons in the United States, aged sixty and older are subject to some form of mistreatment or abuse, including physical, emotional, and sexual abuse, as well as financial exploitation and neglect of basic care needs; and

WHEREAS, Illinois has approximately two million citizens over the age of sixty, meaning that as many as 80,000 Illinois seniors could currently be suffering from some form of abuse; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of this plight against our most vulnerable elderly; and to promote increased reporting of elder abuse; and

WHEREAS, it is essential that the citizens of Illinois recognize the signs of abuse, neglect and exploitation and report suspicions of abuse; and

WHEREAS, it is imperative that each community in Illinois refuses to tolerate this offense against our older citizens by creating greater awareness of the prevalence and severity of elder abuse in hopes of eradicating it from society:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 2008 as **ELDER ABUSE AWARENESS MONTH** in Illinois, and encourage all citizens to recognize this crisis and join in working toward its prevention.

Issued by the Governor June 24, 2008
Filed by the Secretary of State June 27, 2008

**2008-265**

**African / Caribbean International Festival of Life Days**
PROCLAMATIONS

WHEREAS, the 16th Annual African/Caribbean International Festival of Life will be held on July 3-6, 2008; and

WHEREAS, this year's African/Caribbean International Festival of Life is dedicated to "Health Awareness" and to unity among all nations, with the belief that "Out of Many Nationalities We Are One People"; and

WHEREAS, the primary objective of the Festival is to bring together under one umbrella, people of various nationalities, cultures, and ethnic backgrounds; and

WHEREAS, the African/Caribbean International Festival of Life will feature a variety of world beat music, including reggae, calypso, gospel, salsa, blues, rhythm and blues, highlife, soukous, spoken word, and more; and

WHEREAS, exhibitors from various parts of the country will journey to Illinois to offer a variety of international crafts, cultural clothing, ethnic items, along with food from Africa, the Caribbean and other parts of the globe:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 3-6, 2008 as AFRICAN / CARIBBEAN INTERNATIONAL FESTIVAL OF LIFE DAYS in Illinois, and urge all Illinoisans to participate in this family event.

Issued by the Governor June 24, 2008
Filed by the Secretary of State June 27, 2008

Fetal Alcohol Syndrome Disorders Awareness Day

WHEREAS, Fetal Alcohol Syndrome (FAS) is one of the most preventable causes of mental retardation and birth defects. Sadly, as many as 40,000 infants are still born every year in the United States with fetal alcohol effects; and

WHEREAS, Fetal Alcohol Syndrome Disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable; and

WHEREAS, FAS is a lifelong, mentally and physically disabling condition caused by mothers who drink during pregnancy; and
WHEREAS, research has found that even minimal drinking during pregnancy can kill developing brain cells and result in brain damage, facial deformities, and growth abnormalities. Heart, kidney, and liver defects are also common; and

WHEREAS, those with FAS typically have difficulty communicating, learning, and memorizing. Consequently, they have trouble in school and are often deficient in interpersonal skills; and

WHEREAS, unfortunately, there is no cure for FAS. However, with early detection and diagnosis, children with FAS can receive services that increase their chance for a better life; and

WHEREAS, since 1999, September 9 has been observed as International FAS Day to encourage expecting mothers to abstain from alcohol during their nine months of pregnancy:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 9, 2008 as FETAL ALCOHOL SYNDROME DISORDERS AWARENESS DAY in Illinois to raise awareness about Fetal Alcohol Syndrome, and to urge all expecting mothers to take extra precautions while pregnant for the health and well-being of their children.

Issued by the Governor June 25, 2008
Filed by the Secretary of State June 27, 2008

2008-267
Cardinal Stanisław Dziwisz Day

WHEREAS, born in the Polish village Raba Wyżna, Stanisław Dziwisz studied in local seminaries and after successful completion of theological studies was ordained priest on June 23, 1963 for the diocese of Krakow by its auxiliary bishop, Karol Józef Wojtyła; and

WHEREAS, Wojtyła kept Dziwisz on staff as his personal secretary during his time as auxiliary bishop and later archbishop. When Wojtyła was elected pope, Dziwisz continued in the diocese until he was summoned once more for service as a member of the Prefecture of the Papal Household where he served for nearly twenty-seven years as private secretary to Pope John Paul II; and

WHEREAS, Cardinal Dziwisz is currently the Archbishop of Kraków and has been a cardinal since March 24, 2006. Dziwisz was elevated to the rank of titular archbishop during his service to Pope John Paul II and Pope Benedict XVI appointed
Cardinal Dziewisz to his first diocese as the Archbishop of Kraków - an office once held by John Paul II; and

WHEREAS, Cardinal Dziewisz has written a book entitled *A Life with Karol: My Forty-Year Friendship with the Man Who Became Pope*, an intimate, affectionate portrait of Pope John Paul II; and

WHEREAS, Cardinal Dziewisz has been invited to the State of Illinois by the Archdiocese of Chicago, Cardinal George, and the Bishop Abramowicz Seminary. During a two-day program he will visit the Polish community and concelebrate masses with Cardinal George; and

WHEREAS, Cardinal Dziewisz will also be honored with the *Caritas Christi Award* and a banquet will be held in his honor on June 28 and 29:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 29, 2008 as **CARDINAL STANISLAW DZIWISZ DAY** in Illinois and offer my best wishes for an enjoyable and memorable visit.

Issued by the Governor June 25, 2008
Filed by the Secretary of State June 27, 2008
# ILLINOIS ADMINISTRATIVE CODE

## Issue Index - With Effective Dates

Rules acted upon in Volume 32, Issue 28 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

### PROPOSED RULES

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Department of Index
Administrative Code Division
111 E. Monroe
Springfield, IL  62756

**Fax Order To:** (217) 524-0308

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