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Editor’s Note 1:   The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedules for the quarterly and annual indexes are (End of March, June, Sept, Dec) as follows:

- Issue 28 - July 11, 2003: Data through June 30, 2003 (2nd Quarter)
- Issue 41 - October 10, 2003: Data through September 29, 2003 (3rd Quarter)
- Issue 2 - January 9, 2004: Data through December 29, 2003 (Annual)
- Issue 15 - April 00, 2004: Data through March 31, 2004 (1st Quarter)

Editor’s Note 2:   Submit all rulemaking documentation to the following address:

Secretary of State
Department of Index
Administrative Code Division
111 East Monroe Street
Springfield, Illinois 62756
**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. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist of proposed or adopted new rules; amendments to or repealer s 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 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’

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

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Printed by authority of the State of Illinois

July 2001 - 675 - GA -82
ILLINOIS BOARD OF EXAMINERS

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of Part:** Certificate of Certified Public Accountant

2) **Code Citation:** 23 Ill. Adm. Code 1400

3) **Section Numbers:**
   - 1400.60
   - Proposed Action: Amend

4) **Statutory Authority:** Authorized by Sections 2, 6, and 26 of the Illinois Public Accounting Act (225 ILCS 450/2,6, and 16)

5) **A Complete Description of the Subjects and Issues Involved:**

   The Board is adjusting the various fees to meet the statutory requirement that fees be “at least sufficient to defray the costs and expenses incident to the (CPA) examination and issuance of the certificate provided for in Section 3 and for the issuance of a certificate provided for in Section 5.”

6) **Will the proposed amendment replace an emergency rule currently in effect?**

   No.

7) **Does this rulemaking contain an automatic repeal date?**
   - Yes
   - No

8) **Does this proposed amendment contain incorporation by reference?**
   - No

9) **Are there any other proposed amendments pending on this Part?**
   - None

10) **Statewide Policy Objectives:** These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3).

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

   Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

   Ms. Joanne Vician
   Executive Director
   Illinois Board of Examiners
ILLINOIS BOARD OF EXAMINERS

NOTICE OF PROPOSED AMENDMENTS

505 S. Green Street
Champaign, Illinois  61820

12) Initial Regulatory Flexibility Analysis:

A) Types of small business, 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

13) This rule was not included on either of the 2 most recent agendas because:

This rule was not included on either of the 2 most recent agenda because: financial statements and analysis were not complete, and therefore the Board did not know of the need nor the extent of adjustments to fees necessary to meet the statutory mandate of Section 6 of the Act (225 ILCS 450/6).

The full Text of the Proposed Amendment begins on the next page:
ILLINOIS BOARD OF EXAMINERS

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER VI: BOARD OF EXAMINERS

PART 1400
CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

Section 1400.10 Administrative Functions
1400.20 Duties of the Board of Examiners
1400.30 Appointment to the Board of Examiners
1400.40 Board Address
1400.50 Organization and Compensation of the Board of Examiners
1400.55 Admission to the Examination; Issuance of Reciprocal Certified Public Accountant Certificates
1400.60 Filing of the Application and Payment of Fees
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1400.170 Failure in All Subjects - Re-Examination
1400.175 Candidate Request for Grading Review
1400.180 Certified Public Accountant Certificate - Awarding
1400.190 Retention of Records
1400.200 Disposition of Fees
1400.210 Granting Variances

AUTHORITY: Implementing and authorized by Section 26 of the Illinois Public Accounting
ILLINOIS BOARD OF EXAMINERS

NOTICE OF PROPOSED AMENDMENTS

Act [225 ILCS 450/26].

SOURCE: Emergency rule at 5 Ill. Reg. 276, effective December 15, 1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 8303, effective July 31, 1981; emergency amendment at 7 Ill. Reg. 7342, effective June 1, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 3342; amended at 8 Ill. Reg. 24720, effective December 12, 1984; amended at 10 Ill. Reg. 4237, effective February 21, 1986; amended at 18 Ill. Reg. 14143, effective August 26, 1994; emergency amendment at 19 Ill. Reg. 984, effective January 18, 1995, for a maximum of 150 days; Transferred from Chapter V, 23 Ill. Adm. Code 1300 (Board of Trustees) pursuant to 225 ILCS 450, January 1, 1994, at 19 Ill. Reg. 6325; amended at 20 Ill. Reg. 6262, effective May 1, 1996; amended at 21 Ill. Reg. 13315, effective September 26, 1997; Amended at 27 Ill. Reg. _____, effective ________________.

Section 1400.60 Filing of the Application and Payment of Fees

a) Applicants for the examinations for the certified public accountant certificate under the Act shall obtain an application from the Board Office listed in Section 1400.40(a) and (b). The applicants must file their applications with the Board together with official transcripts of academic records to establish their eligibility. The proper fee as authorized in Section 6 of the Act must accompany each application for examination, re-examination, reciprocity and transfer of examination grades. The schedule of fees is as follows:

1) Candidate writing for the first time $300
2) Candidate transferring conditional credit from another jurisdiction $300
3) Candidate for re-examination in all subjects $300
4) Candidate writing two half-day sessions $240
5) Candidate writing one half-day session $215
6) Candidate from another jurisdiction being proctored in Illinois $140
7) Application for certificate under Section 5 of the Act $300
8) Application for certificate by complete transfer of examination grades pursuant to Section 1400.160(d) $300 345

9) Fee for certification of valid Illinois certified public accountant certificate or duplicate certified public accountant certificate $30

10) Fee for foreign credentials evaluation $200 250

11) Late application fee $75

12) NSF/stop pay/returned check fee $25

b) The Board shall establish and collect a fee of $.25 .50 per page for letter and legal size copies as reimbursement for the cost of production, handling and shipping of lists and/or mailing labels and $100.00 per computer disk of the names and addresses of successful candidates and lists of names and addresses of applicants for examinations released as public information under the provision of Section 2 of the Act.

(Source: Amended at 27 Ill. Reg.______ , effective __________________________)
CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Prequalification and Bidder Responsibility

2) **Code Citation:** 44 Ill. Adm. Code 950

3) **Section Numbers:**

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4) **Statutory Authority:** 20 ILCS 3105/9.05, 20 ILCS 3105/16, 30 ILCS 500/5-25, 30 ILCS 500/30-20

5) **A Complete Description of the Subjects and Issues Involved:** The change to the rule sections relating to confidentiality of the CDB prequalification files adds a provision to clarify that although we have the ability to provide file contents to other units of government, this does not include evaluations and the written responses to them. The “QBS Act” (30 ILCS 535/55) prohibits distribution of evaluations and responses to them, and we no of no valid basis to distinguish between contractors and A/Es.

6) **Will this proposed amendment replace an emergency rule current in effect?** No.

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

8) **Does this proposed amendment contain incorporation by reference?** No.

9) **Are there any other proposed amendments pending on this Part?** No.

10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

    Claire Gibson, Deputy Chief Counsel
    Capital Development Board
    3rd Floor William G. Stratton Bldg.
    Springfield, IL 62706
    Telephone: 217/782-1392
CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENTS

12) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporation affected:** Small construction contracting firms.

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

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

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent agendas because: The need for the rulemaking was not anticipated at that time.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 950
PREQUALIFICATION AND BIDDER RESPONSIBILITY

SUBPART A: BIDDER RESPONSIBILITY

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950.150 Confidentiality
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950.170 Processing of Contractor Prequalification and Bidder Responsibility and Renewal Applications
950.180 Ineligibility

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF ABILITY TO BID, AND CONDITIONAL PREQUALIFICATION

Section
950.200 Actions Affecting Prequalification
950.210 Causes for Suspension, Debarment, Modification of Ability To Bid, or Conditional Prequalification
950.220 Failure to Satisfactorily Perform Work on or Breach of the Terms of CDB Contracts, Private Contracts, or Other Governmental Contracts
950.230 Interim or Emergency Suspension or Modification Pursuant to Section 16 of the Capital Development Board Act
950.240 Denial of Prequalification

SUBPART C: APPLICATION OF CDB ACTION

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950.310 Violation of CDB Order
NOTICE OF PROPOSED AMENDMENTS

950.320 Nullification of Prequalification
950.330 Denial of Award of Contract
950.340 Debarment
950.350 Reapplication for Prequalification
950.360 Extension of CDB Action
950.370 Effect on Current Contracts
950.380 Basis of Decisions
950.390 Settlement

SUBPART D: PROCEDURES

Section
950.400 Review
950.410 Conference
950.420 Executive Director
950.430 Request for Reconsideration
950.440 Hearings
950.450 Burden of Proof

AUTHORITY: Implementing and authorized by Section 9.06 of the Capital Development Board Act [20 ILCS 3105/9.06] and Sections 5-25 and 30-20 of the Illinois Procurement Code [30 ILCS 500/5-25 and 30-20].


Section 950.150 Confidentiality

Documents relating to responsibility determinations of a contractor shall be maintained by CDB in a separate file and shall remain confidential as records pertaining to occupational registration, except that they shall be subject to complete disclosure to the contractor to which they relate and
to units of federal, State, or local government, including but not limited to law enforcement agencies. Nothing herein shall be construed to mean that CDB is required to disclose to the contractor the name of any person or organization filing a complaint or providing information to CDB when the complaint or information is used by CDB as the basis for further inquiry into the facts alleged. CDB may release to anyone the contractor’s prequalification status with CDB. Notwithstanding the foregoing, neither the Contractor Performance Evaluations (CPE) nor the contractor’s written responses to them shall be made available to any other person or firm.

(Source: Amended at 27 Ill. Reg. _____, effective __________, _______)

(Capital Development Board)

Notice of Proposed Amendments

Illinois Register

7516
1) **Heading of the Part:** Prequalification of Architects and Engineers

2) **Code Citation:** 44 Ill. Adm. Code 980

3) **Section Numbers:**
   - 980.150
   - Proposed Action: Amend

4) **Statutory Authority:**
   - 20 ILCS 3105/9.05, 20 ILCS 3105/16, 30 ILCS 500/5-25, 30 ILCS 500/30-20, 30 ILCS 535/55

5) **A Complete Description of the Subjects and Issues Involved:**
   The change to the rule sections relating to confidentiality of the CDB prequalification files adds a provision to clarify that although we have the ability to provide file contents to other units of government, this does not include evaluations and the written responses to them. The “QBS Act” (30 ILCS 535/55) prohibits distribution of evaluations and responses to them, and we no of no valid basis to distinguish between contractors and A/E.

6) **Will this proposed amendment replace an emergency rule current in effect?** No.

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

8) **Does this proposed amendment contain incorporation by reference?** No.

9) **Are there any other proposed amendments pending on this Part?** No.

10) **Statement of Statewide Policy Objectives:**
   This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:**
   From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

   Claire Gibson, Deputy Chief Counsel
   Capital Development Board
   3rd Floor William G. Stratton Bldg.
   Springfield, IL 62706
   Telephone: 217/782-1392
12) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporation affected:** Small architecture and engineering firms.

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

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

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent agendas because: The need for the rulemaking was not anticipated at that time.

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

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980.200 Processing of Architect-Engineer Prequalification Application
980.210 Ineligibility (Repealed)

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF PREQUALIFICATION, AND CONDITIONAL PREQUALIFICATION

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980.310 Causes for Suspension, Debarment, Modification of Prequalification, and Conditional Prequalification
980.320 Nullification of Prequalification
980.330 Failure to Satisfactorily Perform Work on or Breach of the Terms of CDB Contracts, Private Contracts, or Other Governmental Contracts
980.340 Interim or Emergency Suspension or Modification Pursuant to Section 16 of the Capital Development Board Act
980.350 Denial of Prequalification
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CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

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SUBPART D: PROCEDURES

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AUTHORITY: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 16 of that Act, Sections 5-25 and 30-20 of the Illinois Procurement Code [30 ILCS 500], and Section 20 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].


Section 980.150 Confidentiality

Documents relating to responsibility determinations of an A/E shall be maintained by CDB in a
separate file and shall remain confidential as records pertaining to occupational registration, except that they shall be subject to complete disclosure to the A/E to which they relate and to units of Federal, State, or local government, including but not limited to, law enforcement agencies. Nothing herein shall be construed to mean that CDB is required to disclose to the A/E the name of any person or organization filing a complaint or providing information to CDB when the complaint or information is used by CDB as the basis for further inquiry into the facts alleged. CDB may release to anyone the A/E prequalification status with CDB. Notwithstanding the foregoing, neither the A/E Performance Evaluations (A/E PE) nor the A/E’s written responses to them shall be made available to any other person or firm.

(Source: Amended at 27 Ill. Reg. ___, effective ________.)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of Part: Administrative Dissolutions or Withdrawal of Statutory Deposit

2) Code Citation: 50 Ill. Adm. Code 2410

3) Section Numbers: Proposed Action:

- 2410.10 New Section
- 2410.20 New Section
- 2410.30 New Section
- 2410.40 New Section
- 2410.50 New Section
- 2410.60 New Section
- 2410.70 New Section
- 2410.80 New Section


5) A Complete Description of the Subjects and Issues Involved: The purpose of this Part is to implement Public Act 92-0075 which authorizes the Director to return the statutorily required deposit of securities to an insurance entity in connection with an administrative dissolution or withdrawal. This Part sets forth the procedural and filing requirements which insurance entities must follow when requesting administrative dissolution or withdrawal of their statutory deposit. This process will help eliminate the uncertainty regarding the dissolution of insurance entities and release of their statutory deposits.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule 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.

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

Eve Blackwell-Lewis    Denise Hamilton  
Staff Attorney     Rules Unit Supervisor  
Department of Insurance   Department of Insurance  
320 West Washington        or  320 West Washington  
(217) 782-2867    (217) 785-8560

12) **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:** Please see Sections 2410.50 through 2410.80 of this Part.

C) **Types of professional skills necessary for compliance:** Administrative and accounting

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the two most recent agendas because the Department did not anticipate the need to initiate regulatory action to implement PA 92-0075.

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

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER dd: DIRECTOR OF INSURANCE, HEARINGS AND REVIEW

PART 2410
ADMINISTRATIVE DISSOLUTIONS OR WITHDRAWAL OF STATUTORY DEPOSIT

Section 2410.10 Purpose
Section 2410.20 Applicability
Section 2410.30 Exemption
Section 2410.40 Definitions
Section 2410.50 Initial Administrative Dissolution or Withdrawal Filing Requirements
Section 2410.60 Plan of Dissolution or Withdrawal of Statutory Deposit
Section 2410.70 Final Filing Requirements
Section 2410.80 Administrative Dissolution


SOURCE: Adopted at 27 Ill. Reg. ______, effective _______________________.

Section 2410.10 Purpose

The purpose of this Part is to implement Public Act 92-0075 which authorizes the Director to return any statutorily required deposit of securities to an insurance entity in connection with the applicable administrative dissolution or withdrawal where necessary to terminate the insurance entity’s existence. This Part sets forth the procedural and filing requirements which insurance entities must follow when requesting administrative dissolution or withdrawal of their statutory deposit. This process will help eliminate the uncertainty regarding the dissolution of insurance entities and release of their statutory deposits.

Section 2410.20 Applicability

This Part is applicable to domestic stock; domestic mutual; reciprocal; assessment legal reserve life; mutual benefit association; burial society; a health maintenance organization (HMO); a
limited health service organization (LHSO); farm mutual, fraternal benefit society or other entities which are granted articles of incorporation or chartered by the Illinois Department of Insurance.

Section 2410.30 Exemption

The requirements of this Part shall not apply to any duly appointed liquidator or receiver by Order of a court of proper jurisdiction.

Section 2410.40 Definitions

Administrative Dissolution means the voluntary surrender by an insurance entity of its Certificate of Authority and cancellation of its Articles of Incorporation by the Director of the Illinois Department of Insurance, resulting in termination of the insurance entity’s existence.

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Insurance Entity, for purposes of this Part, means any domestic stock; domestic mutual; reciprocal; assessment legal reserve life; mutual benefit association; or burial society who possess a certificate of authority issued by the Director pursuant to the Code [215 ILCS 5]; a health maintenance organization, (HMO) who possesses a certificate of authority issued by the Director pursuant to Sections 2-1 and 2-2 of the Health Maintenance Act [125 ILCS 125/2-1 and 2-2] and a limited health maintenance organization, (LHSO) who possesses a certificate of authority issued by the Director pursuant to Sections 2001 and 2002 of the Limited Health Service Organization Act [215 ILCS 130/2001 and 2002]; farm mutual; fraternal benefit societies or other entities which are granted articles of incorporation or chartered by the Illinois Department of Insurance.

Section 2410.50 Initial Administrative Dissolution or Withdrawal Filing Requirements

The following documents must be filed by the insurance entity with the Director in order to initiate the administrative dissolution process:
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

a) A written request for dissolution; or, in the case of an HMO or LHSO, a request for withdrawal of statutory deposit;

b) Except in the case of a non-domestic HMO or LHSO, a plan of dissolution, as described in Section 2410.60 of this Part, which must be certified by an officer of the insurance entity; a non-domestic HMO or LHSO must submit a certified plan of withdrawal which includes the information described in Section 2410.60(a)(1), (2), (3), (5) and (6) with respect to its Illinois operations;

c) An official written instrument wherein an agreement or decision was made to dissolve the insurance entity, as follows:

1) A lawful resolution of the Board of Directors of the insurance entity surrendering its Certificate of Authority and requesting cancellation of the Articles of Incorporation by the Director; or

2) A lawful resolution from the governing body of a mutual benefit association, fraternal benefit society or burial society surrendering the insurance entity’s Certificate of Authority and requesting cancellation of the Articles of Incorporation; or

3) A lawful resolution from the governing body of an HMO or an LHSO, surrendering its Certificate of Authority; or

4) In the case of an HMO or LHSO, an administrative order issued by the governmental officer responsible for issuing the original organizational documents.

d) Any other documentation or information requested by the Director.

Section 2410.60 Plan of Dissolution or Withdrawal of Statutory Deposit

a) The Director must first approve the plan of dissolution before further action can be taken by the insurance entity to voluntarily dissolve. The Director shall consider the following elements:

1) The disposition of insurance contracts and claimant actions;

2) The status of any pending litigation;
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

3) The payment of corporate obligations,

4) The intended disposition of assets, including the statutory deposit being held by the Director;

5) The name and forwarding address for each of the final officers and/or directors; and

6) The date on which the company terminated its last policy or contract obligation and the method(s) by which they were terminated;

b) Upon the written approval of the Director, the insurance entity shall effectuate the plan of dissolution or withdrawal and meet the final filing requirements of Section 2410.70(a) of this Part before the statutory deposit may be released by the Director pursuant to Section 2410.70(b) of this Part.

Section 2410.70 Final Filing Requirements

a) Once the plan of dissolution or withdrawal has been effectuated, the insurance entity shall submit the following documents to the Director:

1) Certification of the completion of such portions of the plan as may be reasonably expected, pending release of the statutory security deposit and, except for an HMO or an LHSO, cancellation of the Articles of Incorporation;

2) Certification that there are no outstanding creditors, policyholders, enrollees, certificate holders, or enrollee/member obligations in effect, which will require the use or maintenance of the statutorily required deposit and, that if the insurance entity is an HMO or LHSO it currently does not and has no plans to engage in the business of insurance in the State;

3) Most current balance sheet;

4) Original Certificate of Authority and/or, except for an HMO or LHSO, Articles of Incorporation; or an Affidavit of the loss of the original documents, submitted by a final officer of the insurance entity.
5) Agreement for Assumption of liabilities, if any, signed by the party who is to receive the security deposit.

b) At such time as the Director is satisfied that the plan of dissolution or withdrawal, as approved, has been carried out as far as may be reasonably expected, and the documents required in Section 2410.70(a) have been filed, the statutory deposit may be released in accordance with the direction given in a certified Board Resolution pursuant to 50 Ill Adm. Code 904.20.

Section 2410.80 Administrative Dissolution

Upon receipt of the documents identified in Section 2410.70(a) of this Part, the Director may cause an insurance entity to be administratively dissolved, except in the case of an HMO or LHSO.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: The Taking of Wild Turkeys – Fall Gun Season

2) **Code Citation**: 17 Ill. Adm. Code 715

3) **Section Numbers**
   - Proposed Action: Amendment
   - Section 715.10
   - Section 715.20
   - Section 715.40

4) **Statutory Authority**: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) **A Complete Description of the Subjects and Issues Involved**: This Part is being amended to update sites open to hunting and to update the address for mailing completed applications to the Department.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

    Stanley Yonkauskis, Jr.
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL  62702-1271
    217/782-1809

12) **Initial Regulatory Flexibility Analysis**:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

13) Regulatory Agenda on which this rulemaking was summarized: July 2002

The full text of the Proposed Amendments begins on the next page.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 715
THE TAKING OF WILD TURKEYS - FALL GUN SEASON

Section
715.10  Hunting Season, Open Counties and Permit Quotas
715.20  Statewide Turkey Permit Requirements
715.21  Turkey Permit Requirements - Special Hunts
715.25  Turkey Permit Requirements - Landowner/Tenant Permits
715.30  Turkey Hunting Regulations
715.40  Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].


Section 715.10  Hunting Season, Open Counties and Permit Quotas

a)  Season: Nine days beginning on Saturday of the Second complete 3-day weekend (Friday, Saturday, Sunday) after October 10. Hunting outside the set season dates is a Class B misdemeanor (see 520 ILCS 5/2.9).

b)  Open Counties

OPEN COUNTIES
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Adams
Alexander
Brown
Calhoun
Carroll
Cass
Clark
Crawford
Fulton
Gallatin/Hardin (south of Rt. 13 only)
Greene
Hancock
Henderson
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Knox
Lawrence
Macoupin
Madison
Marion
Mason
McDonough
Mercer
Monroe
Morgan
Perry
Pike
Pope
Randolph
Richland
Rock Island
Saline
Schuyler
Scott
Stephenson
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Union
Wayne
Whiteside
Williamson
Winnebago

c) Permit quotas shall be set by the Department of Natural Resources on a county or special hunt area basis.

(Source: Amended at 27 Ill. Reg. _____________, effective _________________)

Section 715.20  Statewide Turkey Permit Requirements

a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of $15. Non-resident turkey hunters shall be charged the maximum fee allowed by Section 2.11 of the Wildlife Code [520 ILCS 5/2.11] for each turkey hunting permit. All hunters, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1], are required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Hunting without a valid turkey permit is a Class B misdemeanor (see 520 ILCS 5/2.9). Applications for wild turkey permits must be mailed to:

Illinois Department of Natural Resources - Turkey
Fall Shotgun Wild Turkey Permit
One Natural Resources Way
P.O. Box 19446
Springfield IL  62794-9446

b) Applicants must complete all portions of the permit application form. Incomplete applications shall be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 6 applications may be submitted for group hunters. Applicants submitting applications within three weeks prior to the season shall not be guaranteed receipt of permit by start of season.

c) Applications shall be accepted from residents only from the date on which they became available through the first Monday in July. All requests must be on an official application form. Permits are not transferable and refunds shall not be granted. Permits shall be allocated in a computerized drawing to be held in Springfield. Applications
received after the first Monday in July shall not be included in the drawing.

d) Permits not issued during the first computerized drawing shall be available in a second
computerized lottery drawing. Applications for this drawing will be accepted through the
seventh Monday after the initial lottery deadline. Applications received after this date
will not be included in the drawing. All hunters not receiving a permit in the first
computerized drawing and non-residents may apply at this time for the available permits.
Illinois residents will be given preference for permits allocated in the second lottery
drawing.

e) Permits remaining after the two lotteries will be available in a random daily drawing that
begins on the fourth Monday after the second lottery deadline. All applications received
on or before this date will be processed in the first daily drawing. This drawing period is
open to hunters applying for their first or second permits. Hunters may obtain a
maximum of two permits for the fall gun season.

f) A $3 service fee shall be charged for replacement permits issued by the Department,
except when permits are lost in the mail, no charge will be made.

g) It shall be unlawful to:

1) Submit applications before the second computerized lottery drawing for more
than one permit for the same person. Violation is a Class B misdemeanor (see
520 ILCS 5/2.9);

2) Apply for or receive more than two permits for the fall gun turkey season.
Violation is a Class B misdemeanor (see 520 ILCS 5/2.9); or

3) Provide false and/or deceptive information on a permit application form. In
addition to criminal charges, individuals found guilty of violating this Section
shall have their application rejected, permit revoked, and fees forfeited. Violation
is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 27 Ill. Reg. __________, effective _________________)

Section 715.40 Regulations at Various Department-Owned or -Managed Sites

a) Statewide regulations shall apply for the following sites:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Kaskaskia River State Fish and Wildlife Area (except that area north of Hwy. 154, east of the Kaskaskia River and south of Risdon School Road and Beck's Landing access road)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18

Mississippi River Pools 21, 22, 24

**Nauvoo State Park (Max Rowe Unit only)**

Rend Lake Project Lands (portion in Jefferson County only)

**Weinberg-King State Park (Cecil White Unit)**

b) Statewide regulations shall apply except that all hunters must check in, check out, and report harvest at those sites listed below. Quotas, where listed, shall be on a first come-first serve basis. Hunters shall not be allowed to sign in prior to 4 a.m. each day of the season.

Argyle Lake State Park

Big River State Forest

Cache River State Natural Area (Johnson County portion only)

Cypress Pond State Natural Area

Dog Island Wildlife Management Area

Falling Down Prairie

Ferne Clyffe State Park

Fort de Chartres Historic Site (muzzleloading shotguns only)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Giant City State Park

Hanover Bluff - Kopper Tract

I-24 Wildlife Management Area

Kinkaid Lake Fish and Wildlife Area

Pere Marquette State Park (only that portion of site south of Graham Hollow Road)

Ray Norbut State Fish and Wildlife Area

Saline County Conservation Area

Siloam Springs State Park

Siloam Springs State Park - Buckhorn Unit (resident hunters only; site permit required)

Tapley Woods State Natural Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area - Firing Line Management Unit Only

Weinburg-King State Park

c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 715.20. This permit is only valid for the specific site indicated on the permit.

Apple River Canyon State Park - Salem and Thompson Units

Jim Edgar Panther Creek State Fish and Wildlife Area
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Sam Parr State Park

Sand Ridge State Forest

Witkowsky State Wildlife Area

d) Special program for hunters with disabilities. Statewide regulations shall apply unless designated otherwise by site regulations. Only disabled persons participating in the site’s firearm deer hunt are eligible to participate. This hunt will run concurrent with the site’s firearm deer hunt (refer to 17 Ill. Adm. Code 650.67 for hunt dates). Permits will be $15 each; site specific for Rock Cut; issued at the site during check in for firearm deer hunting. Any additional availability will be publicly announced.

Rock Cut State Park

e) Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 27 Ill. Reg. __________, effective __________________)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** The Taking of Wild Turkeys – Fall Archery Season

2) **Code Citation:** 17 Ill. Adm. Code 720

3) **Section Numbers:**
   - Proposed Action:
     - 720.40 Amendment

4) **Statutory Authority:** Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

5) **A Complete Description of the Subjects and Issues Involved:** This Part is being amended to update the list of sites open for fall archery turkey hunting.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective:** This rulemaking does not affect units of local government.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

    Stanley Yonkausk, Jr.
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL  62702-1271
    217/782-1809

12) **Initial Regulatory Flexibility Analysis:**

    A) **Types of small businesses, small municipalities and not for profit corporations affected:** None
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2002

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 720
THE TAKING OF WILD TURKEYS - FALL ARCHERY SEASON

Section
720.10 Hunting Seasons and Counties Open to Hunting
720.20 Statewide Turkey Permit Requirements
720.25 Turkey Permit Requirements - Landowner/Tenant Permits
720.30 Turkey Hunting Regulations
720.40 Regulations at Various Department-Owned or -Managed Sites
720.50 Releasing or Stocking of Turkeys (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].


Section 720.40 Regulations at Various Department-Owned or -Managed Sites

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Violation of a site specific
regulation is a Class B misdemeanor (see 520 ILCS 5/2.9). Those sites followed by a (2) require hunters to obtain a permit from the site before hunting:

* Anderson Lake Conservation Area (1)

Apple River Canyon State Park - Salem and Thompson Units (1)

Argyle Lake State Park (1)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters - Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Castle Rock State Park (1)

Chain O’Lakes State Park (closed Wednesday through Sunday of pheasant season; opens Monday prior to pheasant season and closes Tuesday following close of pheasant season; reopens December 26 through the close of regular season) (1)

Chauncey Marsh (permit available at Red Hills State Park) (2)

Clinton Lake State Recreation Area (2)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Dixon Springs State Park (1)
Dog Island Wildlife Management Area (1)

Eagle Creek State Park (2)

Falling Down Prairie (1)
Ferne Clyffe State Park (1)
Fort de Chartres Historic Site
Fort Massac State Park (1)

* Franklin Creek State Park (hunting in designated area only) (1)

Giant City State Park (1)
Green River State Wildlife Area (1)

Hamilton County Conservation Area (must possess valid site archery permit) (2)

Hanover Bluff - Kopper Tract (1)

Harry "Babe" Woodyard State Natural Area (2)

* Horseshoe Lake State Park - Gabaret, Mosenthein and Chouteau Island Units (Madison County) (2)

I-24 Wildlife Management Area (1)

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site’s pheasant permit season) (1)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Jubilee College State Park (1)
Kaskaskia River State Fish and Wildlife Area
Kickapoo State Park (2)
Kinkaid Lake Fish and Wildlife Area

**Kishwaukee River State Fish and Wildlife Area (2)**

Lowden-Miller State Forest (1)
Mackinaw River State Fish and Wildlife Area (1)
Marseilles State Fish and Wildlife Area (closed each Friday, Saturday, and Sunday in October) (1)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (1)

* Matthiessen State Park (hunting in designated areas only; must have valid archery deer permit in possession to hunt turkeys; open concurrent with site archery deer season; during the statewide firearm deer seasons, hunters must meet orange clothing requirements) (1) (2)

Mautino State Fish and Wildlife Area (2)
Mermet Lake State Fish and Wildlife Area (1)
Middle Fork State Fish and Wildlife Area (2)
Mississippi Palisades State Park (November 1 through December 31) (2)

**Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)**

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

_Nauvoo State Park (Max Rowe Unit only)_
Newton Lake Fish and Wildlife Area (must possess valid site archery permit) (2)

_Oakford Conservation Area_

_Peabody River King State Fish and Wildlife Area (east and north subunits closed November 1) (1)_

_Pere Marquette State Park (1)_

_Pyramid State Park_

_Pyramid State Park - East Conant Unit (2)_

* _Ramsey Lake State Park (2)_

* _Randolph County Conservation Area_

Ray Norbut State Fish and Wildlife Area (all hunting closes December 15 in Eagle Roost Area) (1)

* _Red Hills State Park (1)_

* _Rend Lake Project Lands and Waters_

Saline County Conservation Area (1)

* _Sam Dale Lake Conservation Area (2)_

* _Sam Parr State Park (1)_

_Sand Ridge State Forest (2)_

* _Sandy Ford (permits available at Starved Rock State Park) (1) (2)_

_Sanganois State Fish and Wildlife Area (2)_
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

* Shabbona Lake State Park (1)

Shelbyville Lake – Corps of Engineers Managed Lands

Shelbyville Wildlife Management Area (2)

Sielbeck Forest Natural Area (1)

Siloam Springs State Park

Siloam Springs State Park - Buckhorn Unit (resident hunters only) (1) (2)

Siloam Springs State Park - Scripps Unit (resident hunters only) (1) (2)

* Spring Lake State Fish and Wildlife Area (2)

* Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area (2)

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area (firing line unit - Statewide season, Public Hunting Area October 1 through October 31, reopens with the close of the Quota Zone goose season)

* Washington County Conservation Area (1)

Weinberg-King State Park

Weinberg-King State Park (Cecil White Unit)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (1)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 27 Ill. Reg. __________, effective _________________ )
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Dove Hunting

2) **Code Citation**: 17 Ill. Adm. Code 730

3) **Section Numbers**:
   - Proposed Action: Amendment
   - 730.20

4) **Statutory Authority**: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

5) **A Complete Description of the Subjects and Issues Involved**: This Part is being amended to update sites open for hunting and to update site-specific regulations.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

    Stanley Yonkausi, Jr.
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL  62702-1271
    217/782-1809

12) **Initial Regulatory Flexibility Analysis**:

    A) Types of small businesses, small municipalities and not for profit corporations affected: None
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B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2002

The full text of the Proposed Amendments begins on the next page:
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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 730
DOVE HUNTING

Section 730.10 Statewide Regulations
Section 730.20 Regulations at Various Department-Owned or -Managed Sites
Section 730.30 Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].


Section 730.20 Regulations at Various Department-Owned or -Managed Sites

a) All the regulations in 17 Ill Adm. Code 510 - General Hunting and Trapping
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apply in this Section, unless this Section is more restrictive.

b) General Regulations

1) Hunters shall possess only bismuth or lead shot size #7 1/2, 8, 9 or size #6 steel or smaller for taking of doves, except as noted under subsection (b)(2), and except these restrictions do not apply during the November portion of dove season.

2) Only non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7 1/2 bismuth shot or smaller may be possessed on the following areas:

   Anderson Lake Conservation Area
   Banner Marsh State Fish and Wildlife Area
   Big Bend State Fish and Wildlife Area (#)
   Cache River State Natural Area
   Carlyle Lake Wildlife Management Area (subimpoundments only)
   Chain O'Lakes State Park
   Eldon Hazlet State Park
   Fulton County Goose Management Area
   Green River State Wildlife Area
   Hennepin Canal Parkway State Park
   Horseshoe Lake Conservation Area (Alexander County)
   Horseshoe Lake State Park (Madison County) (#)
   Horseshoe Lake State Park (Madison County) Gabaret, Mosenthein, Chouteau Island Unit (#)
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Johnson-Sauk Trail State Park

Jubilee College State Park

Kaskaskia River State Fish and Wildlife Area (designated areas)

Lake Shelbyville - Kaskaskia and West Wildlife Management Areas (waterfowl management units and designated non-toxic shot units only)

Mackinaw River State Fish and Wildlife Area

Mautino State Fish and Wildlife Area

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Mt. Vernon Game Propagation Center (hunting hours are 12 noon to 5:00 p.m.) (#)

Peabody River King State Fish and Wildlife Area

Pyramid State Park - Captain Unit

Pyramid State Park - Denmark Unit

Pyramid State Park - Galum Unit

Rend Lake Project Lands and Waters

Sand Prairie Pheasant Habitat Area

Sanganois State Fish and Wildlife Area

Sangchris Lake State Park

Shabbona Lake State Park

Snake Den Hollow State Fish and Wildlife Area
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Ten Mile Creek State Fish and Wildlife Area (areas posted as rest area on the Eads and Belle Rive Units)  

Union County Conservation Area

3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.

4) No hunting is allowed within 100 yards of a designated dove management field except for hunters who are part of the hunter quota for that field.

5) At sites indicated by (#), hunters are required to check in and/or sign out as provided for in 17 Ill. Adm. Code 510.

6) At sites where additional regulations apply, they are noted in parentheses after the site name.

7) Hunting hours and hunting dates at all sites that are open during the upland game season shall coincide with hunting hours and hunting dates listed for the respective sites listed in 17 Ill. Adm. Code 530.

c) Statewide season regulations as provided for in this rule shall apply at the following sites:

Argyle Lake State Park (season opens day after Labor Day)(#)

Bradford Pheasant Habitat Area (permit required)

Cache River State Natural Area (#)

Campbell Pond Wildlife Management Area (#)

Carlyle Lake Lands and Waters - Corps of Engineers managed lands (#)

Chauncey Marsh (permit required; may be obtained at Red Hills State Park headquarters; permits must be returned by 15 February)

Cypress Pond State Natural Area (#)
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Dog Island Wildlife Management Area (#)

East Conant Field (permit required; must be returned by February 15)

Ferne Clyffe State Park (#)

Ft. de Chartres State Historic Site (muzzleloading shotgun only) (#)

Ft. Massac State Park (#)

Freeman Mine (permit required)

Horseshoe Lake Conservation Area (season closes at the end of the first statewide split season) (#)

Horseshoe Lake State Park (Madison County) Gabaret, Mosenthein, Chouteau Island Unit (site permit required)

Manito Pheasant Habitat Area (permit required)

Marshall State Fish and Wildlife Area (#)

Mazonia State Fish and Wildlife Area (season closes September 30) (#)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22, 24

Oakford Conservation Area

Red Hills State Park (#)

Rend Lake Project Lands and Waters (#)

Sand Ridge State Forest (#)

Sangamon County Conservation Area

Sielbeck Forest Natural Area (#)
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Tapley Woods State Natural Area (#)

Ten Mile Creek State Fish and Wildlife Area (permit required; must be returned by February 15)

Trail of Tears State Forest (#)

Wildcat Hollow State Forest

d) Statewide regulations as provided in this Part shall apply at the following sites except that hunting hours are 12 noon to 5 p.m. daily September 1-5; season closes September 30; a drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Banner Marsh State Fish and Wildlife Area (sunrise to noon daily September 1-5, drawing one hour before sunrise) (#)

Fulton County Goose Management Area (#)

Hennepin Canal State Park (#)

Iroquois County Wildlife Management Area (#)

Johnson Sauk Trail State Park (#)

Matthiessen State Park (#)

Mautino State Fish and Wildlife Area (#)

Morrison Rockwood State Park (#)

Sanganois State Fish and Wildlife Area

Snake Den Hollow State Fish and Wildlife Area / Victoria Pheasant Habitat Area (#)

Victoria Pheasant Habitat Area (#)

e) Statewide regulations as provided for in this Part shall apply at the following sites,
except that hunting hours are 12 noon to 5 p.m. daily September 1-5. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Anderson Lake Conservation Area (#)

Big Bend State Fish and Wildlife Area

Big River State Forest (#)

Carlyle Lake Wildlife Management Area (#)

Chain O'Lakes State Park (closes September 5) (#)

Clinton Lake State Recreation Area (dove management fields only) (#)

Eldon Hazlet State Park (closes October 14) (#)

Fox Ridge State Park (dove management fields only)

Harry "Babe" Woodyard State Natural Area (permit required) (#)

Hidden Springs State Forest (dove management fields only)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closes October 14) (#)

Kinkaid State Fish and Wildlife Area (#)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (dove management fields only)

Marseilles State Fish and Wildlife Area (After Labor Day, site is closed on Fridays, Saturdays, and Sundays through October) (#)

Middle Fork State Fish and Wildlife Area (dove management fields only) (#)

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26)
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Moraine View State Park (dove management fields only; season closes October 14) (#)

Newton Lake Fish and Wildlife Area (dove management units) (#)

Peabody River King State Fish and Wildlife Area (east subunit closes October 14) (#)

Pyramid State Park (all hunters must wear DNR backpatch in dove management fields only) (#) (4)

Pyramid State Park - Captain Unit (all hunters must wear DNR backpatch in dove management fields only; permit required; permit must be returned by February 15) (4)

Pyramid State Park - Denmark Unit (all hunters must wear DNR backpatch in dove management fields only; permit required; permit must be returned by February 15) (4)

Pyramid State Park - East Conant Unit (all hunters must wear DNR backpatch in dove management field only; permit required; permit must be returned by February 15) (4)

Pyramid State Park - Galum Unit (all hunters must wear DNR backpatch in dove management fields only; permit required; permit must be returned by February 15) (4)

Randolph County State Conservation Area (#)

Ray Norbut State Fish and Wildlife Area (#)

Siloam Spring State Park (site permit required) (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Union County State Fish and Wildlife Area (season closes at the end of the first statewide split season) (#)

Washington County Conservation Area (closes October 14) (#)
DEPARTMENT OF NATURAL RESOURCES

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Weinberg-King State Park (#)

f) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Crawford County State Fish and Wildlife Area (#)

Hamilton County State Fish and Wildlife Area (#)

I-24 Wildlife Management Area (#)

Lake Le Aqua Na State Park (#)

Mermet Lake State Fish and Wildlife Area (#)

Mt. Vernon Game Propagation Center (#)

Saline County State Fish and Wildlife Area (#)

Sam Dale Lake Conservation Area (#)

Sam Parr State Park (#)

Stephen A. Forbes State Park (season opens day after Labor Day) (#)

Jubilee College State Park (#)

Shabbona Lake State Park (#)

g) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily. Hunting is allowed on opening day, Wednesday, and Saturday only. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Giant City State Park (#)

Horseshoe Lake Conservation Area (Alexander County) (#)
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Saline County State Fish and Wildlife Area (#)

h) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-5; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Clinton Lake State Recreation Area (except dove management fields)

Fox Ridge State Park (except dove management units; shooting hours after September 3 are 12 noon to sunset)

Hidden Springs State Forest (except dove management fields)

Kickapoo State Park

Lake Shelbyville - Eagle Creek State Park (season opens day after Labor Day; closes October 14; shooting hours are 12 noon to sunset)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (except dove management fields; shooting hours after September 5 are 12 noon to sunset)

Middle Fork State Fish and Wildlife Area (except dove management units)

Moraine View State Park (except dove management fields; season closes October 14)

Newton Lake Fish and Wildlife Area (except dove management units)

Snakeden Hollow State Fish and Wildlife Area

i) Permit Areas

1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5 p.m. at the sites listed at the end of this subsection.
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B) Permit Applications

Applicants must contact the Department to obtain a permit reservation. Starting dates and methods for making reservations will be publicly announced. Applicants making reservations will be sent confirmation. Up to 6 reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted; further, persons attempting to make multiple reservations will forfeit the privilege to obtain a reservation for that season.

C) Each person may apply for only one area and receive one permit per season. An applicant may reapply only if his previous application was unsuccessful.

D) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Jim Edgar Panther Creek State Fish and Wildlife Area as indicated in subsection (h)(3). All permits will be issued from Springfield and not from the site, except at Panther Creek State Fish and Wildlife Area as indicated in subsection (h)(3).

E) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.

F) All hunters must wear an DNR issued backpatch.

2) Non-Permit Season Regulations

A) Non-permit season shall be September 6-30 except as indicated in parentheses.

B) Non-permit hunting hours shall be 12 noon - sunset except as indicated in parentheses.

C) No permits are required except as indicated in parentheses.

D) Check in and check out is required except as indicated in
DEPARTMENT OF NATURAL RESOURCES

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parentheses.

E) Hunter quotas will be filled on a first come-first served basis.

3) Sites

Des Plaines Conservation Area (non-permit hunting hours are 12 noon - 5 p.m.)

Edward R. Madigan State Park

Green River State Wildlife Area/Sand Prairie Habitat Area (non-permit hunting hours are sunrise - sunset)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon - 5 p.m.)

Jim Edgar Panther Creek State Fish and Wildlife Area (non-permit season closes with statewide dove season closing; non-permit season is governed by statewide regulations; permit required as indicated in subsection (g) above; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season)

Kankakee River State Park

Mackinaw River State Fish and Wildlife Area (non-permit hunting hours 12 noon to 5 p.m.; each permit authorizes the holder to bring one hunting partner)

Ramsey Lake State Park (non-permit hunting hours are 12 noon to 5 p.m.)

Sangchris Lake State Park (closed after Sunday of the third weekend in September)
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Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

j) Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 27 Ill. Reg. ___________, effective _________________)
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1) **Heading of the Part:** The Illinois Speech-Language Pathology and Audiology Practice Act

2) **Code Citation:** 68 Ill. Adm. Code 1465

3) **Section Numbers:**

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4) **Statutory Authority:** Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

5) **A Complete Description of the Subjects and Issues Involved:** This proposed rulemaking will bring rules for licensure of speech-language pathology assistants into conformity with Public Act 92-0510. Section 1465.45 has been added to clarify that an individual licensed as a speech-language pathology assistant must abide by Illinois law regardless of employment setting. The requirements for licensure as a speech-language pathology assistant are provided. Criteria necessary to become an approved speech-language pathology assistant program are also provided. Supervision is defined for students in speech-language pathology and audiology programs. It also sets forth the provisions for licensure under endorsement as a speech-language pathologist assistant. Continuing education and restoration requirements for speech-language pathologist assistants are also provided.

6) **Do these proposed amendments replace emergency rules currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No
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10) **Statement of Statewide Policy Objectives (if applicable):** This rulemaking has no impact on local governments.

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

Interested persons may submit written comments to:

Department of Professional Regulation  
Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, IL  62786  
217/785-0813; Fax: 217/782-7645

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

12) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** Those providing speech-language pathology or audiology services and those wishing to provide continuing education.

   B) **Reporting, bookkeeping or other procedures required for compliance:** It shall be the responsibility of a sponsor to provide each participant in a CE program with a certificate of attendance or participation. The sponsor shall maintain attendance records for at least five years.

   C) **Types of professional skills necessary for compliance:** Speech-language pathology or audiology skills are required for licensure.

13) **Regulatory Agenda on which this rulemaking was summarized:** January 2003

The full text of the proposed amendments begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1465
THE ILLINOIS SPEECH-LANGUAGE PATHOLOGY
AND AUDIOLOGY PRACTICE ACT

Section
1465.10 Application for Licensure Under Section 7 of the Act (Repealed)
1465.20 Approved Programs
1465.30 Professional Experience
1465.35 Supervision
1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology
1465.40 Application for Licensure
1465.45 Jurisdiction
1465.50 Examination
1465.60 Endorsement
1465.70 Renewal
1465.75 Fees
1465.80 Restoration
1465.85 Continuing Education
1465.90 Granting Variances
1465.95 Professional Conduct Standards

AUTHORITY: Implementing the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].


Section 1465.20 Approved Programs
a) The Department of Professional Regulation (the Department) shall approve a speech-language pathology or audiology program if it meets the following minimum criteria:

1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.

2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions.

3) The program director and faculty must be trained in speech-language pathology, in audiology or in speech and hearing science.

4) The institution has an integrated curriculum plan that includes at least the following subject areas in professional education (60 semester hours required):

   A) Basic Communication Processes

      i) Anatomic and physiological bases
      
      ii) Physical bases and processes of the production and perception of speech, language and hearing
      
      iii) Linguistic and psycholinguistic variables related to normal development and use of speech, language and hearing

   B) Speech-Language Pathology/Audiology

      i) Speech and language disorders
      
      ii) Audiology
      
      iii) Auditory pathology
      
      iv) Auditory habilitation/rehabilitation
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5) The institution has a clinical practicum that provides students with 350 hours of clinical experience supervised by a licensed speech-language pathologist or audiologist or a person who is ASHA certified or certified in audiology by the American Board of Audiology. The experience shall take place in at least 2 clinical settings (i.e., academic program, school setting, medical facility, community clinics).

b) The Department shall approve a speech-language pathology assistant program if it meets the following minimum criteria:

1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.

2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions.

3) The program director and faculty must be trained in speech-language pathology, in audiology or in speech and hearing science.

4) The institution has an integrated curriculum plan that includes at least the following:

   A) 36 semester credit hours or its equivalent in general education;

   B) 24 semester credit hours or its equivalent in the following technical content areas:

      i) an overview of normal processes of communication as relates to hearing, speech and language;

      ii) an overview of communication disorders as relates to hearing, speech and language;

      iii) instruction in speech-language pathology assistant-level service delivery practices, including basic audiometric screening;

      iv) instruction in workplace behaviors to minimally include
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ethics, standards of employee conduct and speech-language pathology assistant duty restrictions;

v) cultural and linguistic factors in communication;

vi) observation; and

C) 100 hours of supervised field work experience supervised by a licensed speech-language pathologist at least 50% of the time when the student is engaged in contact with the patient or client.

c) In determining whether a speech-language pathology assistant program should be approved, the Department shall take into consideration, but not be bound by, accreditation or approval by the American Speech-Language-Hearing Association.

d) The Department has determined that all speech-language pathology and audiology master's degree programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology Educational Standards Board of the American Speech-Language-Hearing Association as of January 1, 2003, meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

Section 1465.30 Professional Experience

To meet the requirements of professional experience for licensure as a speech-language pathologist or audiologist as set forth in Section (8)(f) of the Act, the applicant's experience:

a) Shall be an equivalent of 9 months of full-time, supervised professional experience:

1) 30 hours or more per week over 9 months;

2) 25-29 hours per week over 12 months;

3) 20-24 hours per week over 15 months;

4) 15-19 hours per week over 18 months;
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5) Less than 15 hours per week will not fulfill professional experience requirements;

b) Shall include direct client contact in at least 36 supervised activities, including but not limited to assessment/diagnosis/evaluation, screening, habilitation/rehabilitation and activities related to client management as it pertains to the practice of speech-language pathology or audiology as defined in Section 3 of the Act;

1) At least 18 of the 36 activities shall be on-site observations by the supervisor. One hour equals one on-site observation; no more than 6 hours can be accrued in one day.

2) The other supervised activities may be accomplished through correspondence and include conferences, evaluation of written reports or evaluations by professional colleagues;

c) Shall be part of an evaluation and therapy program located in a school, clinic, hospital, community hospital or other equivalent settings (e.g., nursing homes);

d) Shall be supervised by a licensed speech-language pathologist or licensed audiologist. For persons who obtain supervised experience in states or territories of the United States where licensure is not required, the supervisor may be a person who holds certification from the American Speech-Language-Hearing Association. The supervisor shall be responsible for direct and personal contact, and for monitoring, improving, and evaluating and documenting the performance of the individual who is under his/her supervision; and

e) Shall begin after completion of the course work and clinical practicum education to meet the requirements for the master's degree. In lieu of meeting the requirements set forth in subsections (a) through (d)(e) above, the Department shall accept a Certificate of Clinical Competence letter of verification from the American Speech-Language-Hearing Association that the applicant has completed the Clinical Fellowship Year required for certification as a speech-language pathologist or audiologist.

(Source: Amended at 27 Ill. Reg. ____________, effective _____________________)

Section 1465.35 Supervision
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a) Pursuant to Section 3.5(a) of the Act, supervision of students in speech language pathology and audiology programs means that the supervisor is on-site (but not necessarily in the same room as the student) whenever the student is performing practices normally done by a licensed speech-language pathologist or audiologist. Supervision of students requires that direct supervision must be done no less than 25% of the time for treatment and 50% of the time for diagnostics. The supervisor is directly responsible to the client for all actions of that student. For purposes of this Part, direct supervision means on site, in view of the supervisor. This Part does not apply to students in speech-language pathology assistant programs.

b) Supervision requirements will vary depending on the qualifications of an appropriately trained person pursuant to Section 3.5(b) of the Act.

1) If a person has completed the academic and practicum work for a master's degree in speech-language pathology or audiology and (regardless of whether the individual is in the process of completing the equivalent of 9 months of supervised professional experience for his/her initial license, or whether the individual has finished that experience and is waiting for his/her application for licensure to be processed), the supervision shall meet the requirements set forth in Section 1465.30(d).

2) If a person has completed a training course other than that culminating in a master's degree and if that individual is not exempt pursuant to Section 3.5(a), (c), (d) or (e):

A) Evaluation services as defined in Section 1465.36 shall not be performed except that screening for purposes of identification may be performed by appropriately trained persons. Screening for purposes of this Section means a pass/refer procedure to identify individuals who require further audiologic or speech-language assessment;

B) Management services, as defined in Section 1465.36, must be supervised as follows:

i) The treatment plan shall be developed by the supervisor;

ii) During the first 90 workdays of providing treatment services, at least 30% of the patient/client contact shall be directly supervised by the licensed speech-language
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iii) Subsequent to the first 90 workdays, at least 20% of the patient/client contact shall be under direct supervision by the licensed speech-language pathologist or audiologist; and

iv) Documentation shall be generated by the supervisor to verify the work of the supervisee. Copies of the report shall be kept by the supervisor and the supervisee.

c) Pursuant to Section 8.8 of the Act, a speech-language pathology assistant shall:

1) Practice only under the supervision of a licensed speech-language pathologist who has at least 2 years experience in addition to the supervised professional experience required under Section 8(f) of the Act. A speech-language pathologist who supervises a speech-language pathology assistant must have completed at least 10 clock hours of training in the supervision of speech-language pathology assistants.

A) The supervision training requirement shall be satisfied by completion of 10 hours of continuing education as defined in Section 1465.85(b).

B) Documentation of prior supervisory experience may be submitted to the Board with a request for its acceptance in lieu of the supervision training requirement. The Board retains the discretion to approve or deny the request.

2) Be under the direct supervision of a licensed speech-language pathologist at least 30% of the speech-language pathology assistant's actual patient or client contact time per patient or client during the first 90 days of initial employment as a speech-language pathology assistant. Thereafter, a speech-language pathology assistant must be under the direct supervision of a licensed speech-language pathologist at least 20% of the speech-language pathology assistant's actual patient or client contact time per patient or client. Supervision of a speech-language pathology assistant beyond the minimum requirements of this subsection (c)(2) may be imposed at the discretion of the supervising speech-language pathologist. A supervising speech-language pathologist must be available to
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communicate with a speech-language pathology assistant whenever the assistant is in contact with a patient or client.

A) A speech-language pathologist that supervises a speech-language pathology assistant must document direct supervision activities. At a minimum, supervision documentation must provide:

(i) information regarding the quality of the speech-language pathology assistant's performance of assigned duties; and

(ii) verification that clinical activity is limited to duties specified in Section 8.7 of the Act.

B) A full-time speech-language pathologist may supervise no more than 2 speech-language pathology assistants. A speech-language pathologist that does not work full-time may supervise no more than one speech-language pathology assistant.

For purposes of subsection (c), "direct supervision" means on-site, in-view observation and guidance by a speech-language pathologist while an assigned activity is performed by the speech-language pathology assistant.

(Source: Amended at 27 Ill. Reg. ____________, effective _____________________)

Section 1465.40 Application for Licensure

a) Each applicant for a speech-language pathology or audiology license shall file an application with the Department, on forms provided by the Department. The application shall include:

1) Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20(a);

2) Passage of the National Examination in Speech-Language Pathology and/or Audiology (NESPA) set forth in Section 1465.50 or certification from the American Speech-Language-Hearing Association or from the American Board of Audiology pursuant to Section 8(e) of the Act. Exam scores shall be submitted directly to the Department from the testing service;
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3) Certification, on forms provided by the Department, of completion of the equivalent of 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;

4) A complete work history since completion of a master's degree program; and

5) The required fee as set forth in Section 1465.75(e) of this Part.

b) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board or certification in audiology from the American Board of Audiology, in lieu of the documents required in subsections (a)(2) and (3) above.

c) Each applicant for a speech-language pathology assistant license shall file an application with the Department on forms provided by the Department. The application shall include:

1) Certification, on forms provided by the Department, of completion of an associate's degree from a speech-language pathology assistant program approved by the Department in accordance with Section 1465.20(b);

2) A complete work history since completion of an associate's degree program; and

3) The required fee as set forth in Section 1465.75 of this Part.

d) Until January 1, 2004, the Department, upon recommendation of the Board, will accept an application for license as a speech-language pathology assistant by a person holding a bachelor’s degree in communication disorders who was employed to assist a speech-language pathologist on January 1, 2002. The application shall include:

1) Certification, on forms provided by the Department, of completion of a bachelor’s degree in speech-language pathology;

2) A complete work history since completion of the bachelor’s degree program.
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3) Verification of employment as a bachelor’s level speech-language pathology assistant on January 1, 2002.

4) The required fee as set forth in Section 1465.75 of this Part.

(Source: Amended at 27 Ill. Reg. ______________, effective ______________________)

Section 1465.45 Jurisdiction

Any individual who holds a speech-language pathology assistant license issued by the Department must abide by the Speech-Language Pathology and Audiology Practice Act and this Part regardless of employment setting.

(Source: Added at 27 Ill. Reg. ______________, effective _________________)

Section 1465.60 Endorsement

a) An applicant for a license as a speech-language pathologist or audiologist who is licensed under the laws of another state or territory of the United States shall file an application with the Department, on forms provided by the Department, that includes:

1) Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20;

2) Certification, on forms provided by the Department, of completion of the equivalent to 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;

3) Proof of successful completion of the examination set forth in Section 1465.50 of this Part;

4) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board or certification in audiology from the American Academy Board of Audiology, in lieu of the documents required in subsections (a)(2) and (3) above.

5) Certification, on forms provided by the Department, from the state or
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territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:

A) The time during which the applicant was licensed; and

B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending;

6) A complete work history since completion of a master's degree program; and

7) The required fee as set forth in Section 1465.75 of this Part.

b) The Department may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application. The Department, upon recommendation of the Board, shall determine substantial equivalency based on, but not limited to, certification in speech-language pathology or audiology from the American Speech-Language-Hearing Association or certification in audiology from the American Academy Board of Audiology; education, training, and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has written textbooks relating to speech-language-hearing; and any other attribute which the Director accepts as evidence that the applicant has outstanding and proven ability in speech-language-hearing. The Department shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

c) An applicant for a license as a speech-language pathologist assistant who is licensed under the laws of another state or territory of the United States shall file an application with the Department, on forms provided by the Department that includes:

1) Certification, on forms provided by the Department, of completion of an associate's degree from a speech-language pathology assistant program approved by the Department in accordance with Section 1465.20(b);
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2) A complete work history since completion of an associate's degree program;

3) The required fee as set forth in Section 1465.75 of this Part; and

4) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:

A) The time during which the applicant was licensed; and

B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending;

The Department may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory, together with education and professional experience qualifications of the applicant, are substantially equivalent to the requirements in Illinois at the time of application. The Department shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)

Section 1465.70 Renewal

a) Every license issued under the Act shall expire on October 31 of odd numbered years. The holder of a license may renew the such license during the month preceding the expiration date by paying the required fee. For the October 31, 1999 renewal, in order to renew a license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85. For every renewal thereafter in In order to renew a license, a speech-language pathology or audiology licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. Beginning with the October 31, 2007 renewal, in order to renew a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.

b) It is the responsibility of each licensee to notify the Department of any change of
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address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 27 Ill. Reg. ____________, effective ______________________)

Section 1465.75 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees.

1) The fee for application for initial speech-language pathologist or audiologist license by examination is $90. In addition, applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

2) The fee for application as a speech-language pathology assistant is $45.

3) The fee for application for a person licensed as a speech-language pathologist or audiologist under the laws of another state or territory of the United States or of a foreign country or province is $100.

b) Renewal Fees.

1) The fee for the renewal of a speech-language pathologist or audiologist license shall be calculated at the rate of $50 per year.

2) The fee for the renewal of a speech-language pathology assistant license shall be calculated at the rate of $25 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees.
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2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is $20. No fee is required for name and address changes on Department records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee for rescoring an examination shall be the cost to the Department of rescoring the examination, plus any fees charged by the applicable testing service to have the examination rescored.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing the such certificate.

6) The fee for a roster of persons licensed as speech-language pathologists or audiologists in this State shall be the actual cost of producing the such a roster.

(Source: Amended at 27 Ill. Reg. ______________, effective _____________________)

Section 1465.80 Restoration

a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of the fees pursuant to Section 1465.75 of this Part. After October 31, 1999, in order to restore a speech-language pathology or audiology license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. In order to restore a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.

b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the fee pursuant to Section 1465.75 of this Part. After October 31, 1999, in order to restore a speech-language pathology or audiology license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. In order to restore a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.
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c) A person seeking restoration of a speech-language pathology or audiology license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fee required by Section 1465.75 of this Part and be scheduled for an interview before the Board. After October 31, 1999, in order to restore a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:

1) Sworn evidence of active practice in another United States jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or

2) An affidavit attesting to military service as provided in Section 11(f) of the Act; or

3) Proof of successful completion of the NESPA examination in accordance with Section 1465.50 of this Part within one year prior to application for restoration of a speech-language pathology or audiology license.

d) A person seeking restoration of a speech-language pathology assistant license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fee required by Section 1465.75 of this Part and be scheduled for an interview before the Board. In order to restore a license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:

1) Sworn evidence of active employment as a speech-language pathologist assistant in another United States jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to be employed during the term of said active employment as a speech-language pathologist assistant; or

2) An affidavit attesting to military service as provided in Section 11(f) of the Act.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department
because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 27 Ill. Reg. ______________, effective _____________________)

Section 1465.85 Continuing Education

a) Continuing Education Hours Requirements

1) Beginning with the October 31, 2001 renewal and every renewal thereafter, for the October 31, 1999 renewal and every renewal thereafter, a licensee will be required to complete 10 hours of continuing education. (Continuing education hours taken from November 1, 1997 to October 31, 1999, from a sponsor approved by the Department in accordance with this Section, may be utilized to fulfill the 10 hours of continuing education.) After October 31, 1999, in order to renew a speech-language pathology or audiology license, a licensee will be required to complete 20 hours of continuing education in accordance with this Section. Beginning with the October 31, 2007 renewal and every renewal thereafter, in order to renew a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with this Section.

2) A prerenewal period is the 24 months preceding October 31 of each odd-numbered year.

3) CE requirements shall be the same for licensed speech-language pathologists and licensed audiologists. Individuals who hold a license as a speech pathologist and as an audiologist will be required to complete 20 hours of continuing education for each license held (10 hours for each license for the October 31, 1999 renewal). An audiologist who has met the continuing education requirements of the Hearing Instrument
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Consumer Protection Act during the prerenewal period shall be deemed to have met the continuing education requirements for renewal of the audiologist license.

4) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.

5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

6) Speech-language pathologists and audiologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education (CE)

1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at, or participation in, a program or course ("program") that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.

2) CE credits may be earned for completion of a correspondence course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.

3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of speech-language pathology or audiology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
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4) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of speech-language pathology and audiology. The preparation of each published paper, book chapter or professional presentation dealing with speech-language pathology or audiology may be claimed for a maximum of 5 hours of CE credit. A presentation must be before an audience of speech-language pathologists, audiologists or related professionals. Five credit hours may be claimed for only the first time the information is published or presented.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) American Speech-Language-Hearing Association and its affiliates;

B) American Academy of Audiology and its affiliates;


D) Illinois Academy of Audiology and its affiliates;

E) Any other accredited school, college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Department in accordance with subsection (c)(2) below to coordinate and present continuing education courses and programs in conjunction with this Section.

2) An entity, not listed in subsection (c)(1)(A), (B) and (C) above, seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with a $500 application fee. (State agencies, State colleges or State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification:

i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;

ii) That the sponsor shall be responsible for verifying full-time
continuous attendance at each program and shall provide a certificate of attendance as set forth in subsection (c)(9) below;

iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;

iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered;

B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of speech-language pathology or audiology;

B) Foster the enhancement of general or specialized speech-language pathology or audiology practice and values;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

D) Specify the course objectives, course content and teaching methods to be used; and

E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be
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completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the approved sponsor. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) All programs given by approved sponsors shall be open to all licensed speech-language pathologists, and licensed audiologists, and licensed speech-language pathology assistants and not be limited to members of a single organization or group.

7) To maintain approval as a sponsor, each shall submit to the Department by October 31 of each odd-numbered year a renewal application, a $250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.

8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The name, address and license number, if applicable, of the sponsor;

B) The name and address of the participant;

C) A brief statement of the subject matter;

D) The number of hours attended in each program;
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E) The date and place of the program; and

F) The signature of the sponsor.

9) The sponsor shall maintain attendance records for not less than 5 years.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

11) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.

12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions
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1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $10 per hour late fee not to exceed $150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 1465.75 of this Part.

f(g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 1465.75 of this Part, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from the such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
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B) An incapacitating illness documented by a statement from a currently licensed physician;

C) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Amended at 27 Ill. Reg. ____________, effective ______________________)

Section 1465.95 Professional Conduct Standards

The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 16 of the Act, that which is interpreted to include, but is not limited to, the following acts or practices:

a) Practicing, condoning, facilitating, or otherwise being involved in, any form of discrimination. The licensee should act to prevent and eliminate discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status;

b) Engaging in any action that violates or diminishes the civil or legal rights of clients;

c) Engaging in the sexual exploitation of clients, students or supervisees;

d) Engaging in or condoning sexual harassment, which is defined as unwelcome deliberate or repeated comments, gestures or physical contacts of a sexual nature;

e) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, fees for services, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged;
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f) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information;

g) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency;

h) Failing to inform clients of the use of all experimental methods of treatment; safety precautions shall be adhered to by the licensee;

i) Failing to establish and maintain client records;

j) Deceptive, misleading or false representation, advertising. Licensees must assert should claim or imply only professional credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Professional Credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in speech-language pathology or audiology;

k) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors;

l) Knowingly providing services to a client when the ability to practice is impaired. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems;

m) Permitting a student or supervisee under his/her supervision or control to perform, or permitting the student or supervisee to hold himself or herself out as competent to perform professional services beyond the trainee's, or intern's, or assistant’s level of education, training and/or experience;

n) Allowing the student or supervisee to violate the rights of clients, permitting a trainee to violate confidentiality standards or failing to ensure that the client is informed that he/she is being treated by a student or supervisee;

o) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;
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(Source: Amended at 27 Ill. Reg. ____________, effective _____________________)
DEPARTMENT OF PUBLIC HEALTH

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1) Heading of the Part: Postsurgical Recovery Care Center Demonstration Program Code

2) Code Citation: 77 Ill. Adm. Code 210

3) Section Numbers: Proposed Action:
   210.2250 Amendment

4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]

5) A complete description of the subjects and issues: Section 210.2250 implements the provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions, unless the Director approves the waiver in writing. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) Will this rulemaking replace an emergency rule currently in effect? Yes

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

8) Does this rulemaking contain any incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate under the State Mandate Act [30 ILCS 805].
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11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5th Floor  
Springfield, Illinois  62761  
217/782-2043  
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Postsurgical recovery care centers

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the *Illinois Register* on page 7888.
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1) Heading of the Part: Community-Based Residential Rehabilitation Center Demonstration Program Code

2) Code Citation: 77 Ill. Adm. Code 220

3) Section Numbers: Proposed Action:
   220.2800 Amendment

4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]

5) A complete description of the subjects and issues:

   Section 220.2800 implements the provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions, unless the Director approves the waiver in writing. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

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11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Community-based residential rehabilitation facilities

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the Illinois Register on page 7904.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Alzheimer’s Disease Management Center Demonstration Program Code

2) **Code Citation**: 77 Ill. Adm. Code 225

3) **Section Numbers**: Proposed Action:

   225.1050 Amendment

4) **Statutory Authority**: Alternative Health Care Delivery Act [210 ILCS 3]

5) **A complete description of the subjects and issues**:

   Section 225.1050 implements the provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions, unless the Director approves the waiver in writing. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) **Will this rulemaking replace an emergency rule currently in effect?** Yes

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

8) **Does this rulemaking contain any incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives**: This rulemaking does not create or expand a
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

State Mandate under the State Mandates Act [30 ILCS 805].

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Alzheimer’s disease management centers [no facilities are yet licensed]

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the Illinois Register on page 7920.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Children’s Respite Care Center Demonstration Programs Code

2) **Code Citation:** 77 Ill. Adm. Code 260

3) **Section Numbers:**
   - Proposed Action:
     - 260.1750 Amendment

4) **Statutory Authority:** Alternative Health Care Delivery Act [210 ILCS 3]

5) **A complete description of the subjects and issues:**

   Section 260.1750 implements the provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions, unless the Director approves the waiver in writing. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) **Will this rulemaking replace an emergency rule currently in effect?** Yes

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

8) **Does this rulemaking contain any incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Children’s Respite Care Centers [one facility currently licensed]

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the Illinois Register on page 7937.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Skilled Nursing and Intermediate Care Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 300

3) **Section Numbers:**
   - 300.340 Amendment
   - 300.2820 Amendment

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:**

Sections 330.340 (Incorporated and Referenced Materials) and 330.3040 (Building Codes) are being amended to update incorporated and referenced materials, including incorporation of the 2000 edition of the National Fire Protection Association (NFPA) Life Safety Code for new facilities.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) **Will this rulemaking replace an emergency rule currently in effect?** Yes

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

8) **Does this rulemaking contain any incorporations by reference?** Yes

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

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10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].
11) **Time, place, and manner in which interested persons may comment on this rulemaking:** Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5th Floor  
Springfield, Illinois  62761  
217/782-2043  
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) **Initial Regulatory Flexibility Analysis:**

A) **Type of small businesses, small municipalities and not-for-profit corporations affected:** Skilled nursing and intermediate care facilities

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

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

13) **Regulatory Agenda on which this rulemaking was summarized:** These amendments were not included on either of the Department’s most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were published.

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

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300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)

APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights (Repealed)

APPENDIX D Forms for Day Care in Long-Term Care Facilities

APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)

APPENDIX F Guidelines for the Use of Various Drugs

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DEPARTMENT OF PUBLIC HEALTH

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TABLE D  Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS


SUBPART A: GENERAL PROVISIONS

Section 300.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1998), which may be obtained from the American Dietetic Association, 216 West Jackson, Chicago, Illinois 60606-6995.

B) American National Standards Institute, which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017.

i) Standard No. A177.1-R1971, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped

A) ii) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.


E) For existing facilities (see Subpart O), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, 02269:

i) No. 10 (1978): Standards for Portable Extinguishers


iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems

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viii) No. 253 (1978): Flooring Radiant Heat Energy Test

ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

x) Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F)G) For new facilities (see Subpart N), the following standards of the National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Chapter 33 (1997), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, 02269:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition
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x) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition


H) The following standards, Underwriters Laboratories, Inc. (UL), which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

i) Fire Resistance Directory (2003 Edition), and

ii) Building Material Directory (2003 Edition) and


J) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.

K) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation
DEPARTMENT OF PUBLIC HEALTH

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Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.

K) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.

2) Federal government publications:

The following guidelines of the United States Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161-Atlanta, Georgia 30333.


B) Guideline for Handwashing and Hospital Environmental Control (1985).


E) Guideline for Prevention of Nosocomial Pneumonia (February 1994).


G) Guidelines Guideline for Infection Control in Health Care Hospital
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3) Federal regulations

A) 21 CFR 1306, Prescriptions (April 1, 2002)

B) 42 CFR 483.151-156 Requirements for States and Long-Term Care Facilities (October 1, 2002)

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions additions or deletions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:


B) Social Security Act (42 USC U.S.C.A. 301 et seq., 1395 et seq. and 1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Court of Claims Act [705 ILCS 505]

E) Illinois Dental Practice Act [225 ILCS 25]
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F) Election Code [10 ILCS 5]
G) Freedom of Information Act [5 ILCS 140]
H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
I) Hospital Licensing Act [210 ILCS 85]
J) Illinois Controlled Substances Act [720 ILCS 570]
K) Illinois Health Facilities Planning Act [20 ILCS 3906]
M) Illinois-Nursing and Advance Practice Nursing Act of 1987 [225 ILCS 65]
N) Illinois Occupational Therapy Practice Act [225 ILCS 75]
O) Illinois Physical Therapy Act [225 ILCS 90]
P) Life Care Facilities Act [210 ILCS 40]
Q) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
R) Medical Practice Act of 1987 [225 ILCS 60]
S) Mental Health and Developmental Disabilities Code [405 ILCS 5]
T) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
U) Nursing Home Care Act [210 ILCS 45]
V) Pharmacy Practice Act of 1987 [225 ILCS 85]
W) Private Sewage Disposal Licensing Act [225 ILCS 225]
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X) Probate Act of 1975 [775 ILCS 5]
Y) Illinois Public Aid Code [305 ILCS 5]
Z) Safety Glazing Materials Act [430 ILCS 60]
AA) Illinois Administrative Procedure Act [5 ILCS 100]
BB) Clinical Psychologist Licensing Act [225 ILCS 15]
CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
DD) Health Care Worker Background Check Act [225 ILCS 46]
FF) Cannabis Control Act [720 ILCS 550]
HH) Living Will Act [755 ILCS 35]
II) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
JJ) Health Care Surrogate Act [755 ILCS 45]
KK) Right of Conscience Act [745 ILCS 70]
LL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]
MM) Supportive Residences Licensing Act [210 ILCS 65]
NN) Community Residential Alternatives Licensing Act [210 ILCS 40]
OO) Community Living Facilities Licensing Act [210 ILCS 35]
PP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
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QQ  Counties Code [55 ILCS 5]

RR)  Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]

SS)  Podiatric Medical Practice Act of 1987 [225 ILCS 100]

TT)  Illinois Optometric Practice Act of 1987 [225 ILCS 80]

UU)  Physician Assistant Practice Act of 1987 [225 ILCS 95]

VV)  Alzheimer’s Special Care Disclosure Act [220 ILCS 4]

WW)  Illinois Act on the Aging [20 ILCS 105]

XX)  Alternative Health Care Delivery Act [210 ILCS 3]

YY)  Uniform Conviction Information Act [20 ILCS 2635]

ZZ)  Assisted Living and Shared Housing Act [210 ILCS 9]

3)  State of Illinois rules:

A)  Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)


C)  Department of Public Health:

   i)  Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

   ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

   iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

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v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


ix) Rules of Practice and Procedure in Administrative Hearings
(xii) Intermediate Care for the Developmentally Disabled

xi) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

D) Department of Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse

Treatment, Intervention and Research Programs (77 Ill. Adm. Code 2058)
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F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section 300.2820 Codes and Standards

a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of federal regulations or of any standards of a nationally recognized organization or association refers to the regulations and standards on the date specified and does not include any editions additions or amendments deletions subsequent to the date specified.

1) State of Illinois rules

A) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health


C) Food Service Sanitation Code (77 Ill. Adm. Code 750), Department of Public Health

D) Boiler and Pressure Vessel Safety Code (41 Ill. Adm. Code 120), Office of the State Fire Marshal

2) Codes and standards

A) National Fire Protection Association (NFPA), Standard No. 101: Life Safety Code, 2000 Edition (New Health Care Occupancies), including and all appropriate references under Chapter 33, and excluding Chapter 5, Performance Based Options, and all other references to performance based options, NFPA
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101A: Alternative Approaches to Life Safety shall not be allowed to establish equivalencies for new construction. In addition to the publications referenced in Chapter 33, the following documents shall be applicable for all long-term care facilities:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


ix) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition

B) Underwriters Laboratories, Inc. (UL):


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D) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE):
   i) Handbook of Fundamentals, 2001
   ii) Handbook of Applications, 1999


F) American National Standards Institute (ANSI):

b) In addition to compliance with the standards set forth in this Section, all building codes, ordinances and regulations that are enforced by city, county or other local jurisdictions in which the facility is, or will be, located shall be observed.

c) Where no local building code exists, the recommendations of the 2000 Edition of the BOCA International Building Code shall apply.


e) Pursuant to the Medicare-Medicaid certification requirements of 42 CFR 405.1134 (a) (1983) and 42 CFR 442.321(e) (1983), any skilled nursing facility that on December 4, 1980, or on November 26, 1982, or any intermediate care
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facility that on November 26, 1982, complied with the requirements of the 1967 or 1973 edition of the Life Safety Code will be considered to be in compliance with Section 300.2820 (a)(2)(A)(i), as long as the facility continues to remain in compliance with that edition of the Code.

e(f) Amendments to this Section effective March 25, 2003-August 31, 1998, supersede all other codes and standards incorporated in this Subpart N.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

1) Heading of the Part: Sheltered Care Facilities Code
2) Code Citation: 77 Ill. Adm. Code 330
3) Section Numbers: Proposed Action:
   330.340 Amendment
DEPARTMENT OF PUBLIC HEALTH
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330.3040 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A complete description of the subjects and issues:

Sections 330.340 (Incorporated and Referenced Materials) and 330.3040 (Building Codes) are being amended to update incorporated and referenced materials, including incorporation of the 2000 edition of the National Fire Protection Association (NFPA) Life Safety Code for new facilities.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) Will this rulemaking replace an emergency rule currently in effect? Yes

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

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? Yes

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10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois  62761
217/782-2043
e-mail:  rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Sheltered care facilities

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the Department’s most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were published.

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

TITLE 77 PUBLIC HEALTH
CHAPTER I:  DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c:  LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE
### DEPARTMENT OF PUBLIC HEALTH
### NOTICE OF PROPOSED AMENDMENTS
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

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SUBPART A: GENERAL PROVISIONS

Section 330.340 Incorporated and Referenced Materials

a) The following private and professional association standards are incorporated in this Part:

1) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1998), which may be obtained from the American Dietetic Association, 216 West Jackson, Chicago, Illinois 60606-6995.
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2) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Chapter 33 (1997), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, 02269:

   vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition
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x) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition


4) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.

5) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.

6) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.

b) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions additions or deletions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:
   B) Social Security Act (42 USC U.S.C. 301 et seq., 1395 et seq. and 1396 et seq.)
   C) Controlled Substances Act (2 USC 802)

2) State of Illinois statutes:
   A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS
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B) Child Care Act of 1969 [225 ILCS 10]
C) Court of Claims Act [705 ILCS 505]
D) Illinois Dental Practice Act [225 ILCS 25]
E) Election Code [10 ILCS 5]
F) Freedom of Information Act [5 ILCS 140]
G) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
H) Hospital Licensing Act [210 ILCS 85]
I) Illinois Health Facilities Planning Act [20 ILCS 3906]
K) Life Care Facilities Act [210 ILCS 40]
L) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
M) Medical Practice Act of 1987 [225 ILCS 60]
N) Mental Health and Developmental Disabilities Code [405 ILCS 5]
O) Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65]
P) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
Q) Nursing Home Care Act [210 ILCS 45]
R) Illinois Occupational Therapy Practice Act [225 ILCS 75]
S) Pharmacy Practice Act of 1987 [225 ILCS 85]
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T) Illinois Physical Therapy Act 225 ILCS 90

U) Private Sewage Disposal Licensing Act [225 ILCS 225]

V) Probate Act of 1975 [755 ILCS 5]

W) Illinois Public Aid Code [305 ILCS 5]

X) Illinois Administrative Procedure Act [5 ILCS 100]

Y) Clinical Psychologist Licensing Act [225 ILCS 15]

Z) Dietetic and Nutrition Services Practice Act [225 ILCS 30]

AA) Health Care Worker Background Check Act [225 ILCS 46]


CC) Cannabis Control Act [720 ILCS 550]


EE) Living Will Act [755 ILCS 35]

FF) Powers of Attorney for Health Care Law [755 ILCS 45]

GG) Health Care Surrogate Act [755 ILCS 40]

HH) Right of Conscience Act [745 ILCS 70]

II) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

JJ) Illinois Controlled Substances Act [720 ILCS 570]

KK) Supportive Residences Licensing Act [210 ILCS 65]

LL) Community Residential Alternatives Licensing Act [210 ILCS
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MM) Community Living Facilities Licensing Act [210 ILCS 35]

NN) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

OO) Counties Code [55 ILCS 5]

PP) Alzheimer’s Special Care Disclosure Act [220 ILCS 4]

QQ) Tort Immunity Act [745 ILCS 10]

RR) Illinois Act on the Aging [20 ILCS 105]

SS) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

TT) Assisted Living and Shared Housing Act [210 ILCS 9]

UU) Alternative Health Care Delivery Act [210 ILCS 3]

VV) Wrongs to Children Act [720 ILCS 150]

WW) Criminal Jurisprudence Act [720 ILCS 115]

XX) Uniform Conviction Information Act [20 ILCS 2635]

YY) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

ZZ) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

AAA) Physician Assistant Practice Act of 1987 [225 ILCS 95]

3) State of Illinois rules:

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B) Department of Public Health

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
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C) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100)

D) Department of Human Services, Alcoholism and Substances Abuse Treatment, Intervention and Research Program (77 Ill. Adm. Code 2058)

E) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section 330.3040 Building Codes

a) The design and construction of the facility shall meet the minimum requirements of the following codes and regulations except as modified within this Part:

1) National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, 2000 Edition (New Health Care Occupancies), including and all appropriate references under Chapter 33, and excluding Chapter 5, Performance Based Options, and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not be allowed to establish equivalencies for new construction. In addition to the publications referenced in Chapter 33, the following documents shall be applicable for all long-term care facilities:


iv) NFPA 24, Standard for the Installation of Private Fire Service
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Mains and Their Appurtenances – 2002 Edition


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


ix) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition

2) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health


4) Food Service Sanitation Code (77 Ill. Adm. Code 750), Department of Public Health

b) In addition to the codes and regulations listed in this Section, the design and construction of the facility shall meet the minimum requirements of all applicable local building codes and ordinances.

c) Amendments to this Section effective March 25, 2003, August 31, 1998, supersede all other codes and standards incorporated in this Subpart M.

(Source: Amended at 27 Ill. Reg. _________, effective ______________________)
1) **Heading of the Part:** Illinois Veterans Homes Code

2) **Code Citation:** 77 Ill. Adm. Code 340

3) **Section Numbers:** Proposed Action:

   340.1010  Amendment
DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:**

   Section 340.1010 (Incorporated and Referenced Materials) is being amended to update materials that are incorporated and referenced in the rules, such as state rules, federal regulations, and federal government publications. Materials no longer incorporated in the rules are being deleted.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) **Will this rulemaking replace an emergency rule currently in effect?** No

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

8) **Does this rulemaking contain any incorporations by reference?** Yes

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

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10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

11) **Time, place, and manner in which interested persons may comment on this rulemaking:**
    Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

    Peggy Snyder  
    Division of Legal Services  
    Illinois Department of Public Health  
    535 West Jefferson St., 5th Floor
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type 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

13) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the Department’s most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were published.

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

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE
DEPARTMENT OF PUBLIC HEALTH

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340.1000 Definitions
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340.1115 Federal Veterans' Regulations
340.1120 Application for License
340.1125 Alzheimer’s Special Care Disclosure
340.1130 Criteria for Adverse Licensure Actions
340.1140 Denial of Initial License
340.1150 Revocation or Denial of Renewal of License
340.1160 Inspections, Surveys, Evaluations, and Consultations
340.1170 Presentation of Findings by the Department
340.1190 Ownership Disclosure
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340.1260 Waivers

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340.1320 Disaster Preparedness
340.1330 Serious Incidents and Accidents
340.1335 Infection Control
340.1340 Facility Record Requirements
340.1350 Personnel Policies
340.1360 Initial Health Evaluation for Employees
340.1370 Administrator
340.1375 Personnel Requirements
340.1376 Registry of Certified Nursing Assistants
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340.1377 Health Care Worker Background Check
340.1378 Resident Attendants
340.1380 Contacting Local Law Enforcement

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340.1540 Life-Sustaining Treatments
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340.1570 Personal Care
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Section
340.1650 Medication Policies and Procedures
340.1655 Compliance with Licensed Prescriber’s Orders
340.1660 Administration of Medication
340.1665 Control of Medications
340.1670 Labeling and Storage of Medication
340.1675 Self-Administration of Medication

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SUBPART G: RESIDENT RECORDS

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340.1810 Content of Medical Records
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Section 340.2000 Maintenance
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TABLE A Heat Index Table/Apparent Temperature
TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].


SUBPART A: GENERAL PROVISIONS

Section 340.1010 Incorporated and Referenced Materials

a) The following regulations, standards, and statutes are incorporated or referenced in this Part:

1) Private and professional association standards:
   NFPA No. 99: Standard for Health Care Facilities (2000 Edition) which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269 (See Section 340.1650.
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A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1998), which may be obtained from the American Dietetic Association, 216 W. Jackson, Chicago, Illinois  60606-6995.

B) National Council for Therapeutic Recreational Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.

2) Federal government publications:

The following guidelines of the U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States U.S. Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 Atlanta, Georgia 30333.

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981);

B) Guideline for Handwashing and Hospital Environmental Control (1985);

C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002 October 1981);

D) Guideline for Prevention of Surgical Site Infection (1999)-Wound Infections (March 1982; Revised 1985);

E) Guideline for Prevention of Nosocomial Pneumonia (February 1994);

F) Guideline for Isolation Precautions in Hospitals (February 18,
DEPARTMENT OF PUBLIC HEALTH

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3) Federal regulations:

A) Definitions (38 CFR 51.2, effective February 7, 2000);
B) Resident rights (38 CFR 51.70, effective February 7, 2000);
C) Admission, transfer and discharge rights (38 CFR 51.80, effective February 7, 2000);
D) Resident behavior and facility practices (38 CFR 51.90, effective February 7, 2000);
E) Quality of Life (38 CFR 51.100, effective February 7, 2000);
F) Resident assessment (38 CFR 51.110, effective February 7, 2000);
G) Quality of care (38 CFR 51.120, effective February 7, 2000);
H) Nursing services (38 CFR 51.130, effective February 7, 2000);
I) Dietary services (38 CFR 51.140, effective February 7, 2000);
J) Physician services (38 CFR 51.150, effective February 7, 2000);
K) Specialized rehabilitative services (38 CFR 51.160, effective February 7, 2000);
L) Dental services (38 CFR 51.170, effective February 7, 2000);
M) Pharmacy services (38 CFR 51.180, effective February 7, 2000);
N) Infection control (38 CFR 51.190, effective February 7, 2000);
O) Physical environment (38 CFR 51.200, effective February 7,
b) The following federal and state statutes are referenced in this Part:

1) Civil Rights Act of 1964 (42 USC 2000e et seq.);
2) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.);
3) Veterans’ Benefits (38 USC 101; 38 USC 641 et seq.);
4) Controlled Substances Act (21 USC 802);
5) Illinois Dental Practice Act [225 ILCS 25];
6) Election Code [10 ILCS 5];
7) Freedom of Information Act [5 ILCS 140];
8) General Not For Profit Corporation Act of 1986 [805 ILCS 105];
9) Illinois Health Facilities Planning Act [20 ILCS 3960];
10) Nursing and Advanced Practice Nursing Act [225 ILCS 65];
11) Illinois Occupational Therapy Practice Act [225 ILCS 75];
12) Illinois Physical Therapy Act [225 ILCS 90];
13) Life Care Facilities Act [210 ILCS 40];
14) Medical Practice Act of 1987 [225 ILCS 60];
15) Mental Health and Developmental Disabilities Code [405 ILCS 5];
16) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 60].
DEPARTMENT OF PUBLIC HEALTH

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70];
17) Nursing Home Care Act [210 ILCS 45];
18) Pharmacy Practice Act of 1987 [225 ILCS 85];
19) Probate Act of 1975 [755 ILCS 5];
20) Illinois Public Aid Code [305 ILCS 5].
21) Counties Code [55 ILCS 5];
22) Hospital Licensing Act [210 ILCS 85];
23) Child Care Act of 1969 [225 ILCS 10];
24) Community Living Facilities Licensing Act [210 ILCS 35];
25) Community Residential Alternatives Licensing Act [210 ILCS 40];
26) Supportive Residences Licensing Act [210 ILCS 65];
27) Assisted Living and Shared Housing Act [210 ULCS 9];
28) Alternative Health Care Delivery Act [210 ILCS 3];
29) Clinical Psychologist Licensing Act [225 ILCS 15];
30) Clinical Social Work and Social Work Practice Act [225 ILCS 20];
31) Alzheimer’s Special Care Disclosure Act [220 ILCS 4];
32) Illinois Administrative Procedure Act [5 ILCS 100];
33) Illinois Act on the Aging [20 ILCS 105];
34) Criminal Code of 1961 [720 ILCS 5];
35) Health Care Worker Background Check Act [225 ILCS 46];
36) Uniform Conviction Information Act [20 ILCS 2635];
DEPARTMENT OF PUBLIC HEALTH

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37) Cannabis Control Act [720 ILCS 550];
38) Illinois Controlled Substances Act [720 ILCS 570];
39) Wrongs to Children Act [720 ILCS 150];
40) Criminal Jurisprudence Act [720 ILCS 115];
41) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV];
42) Probate Act of 1975 [775 ILCS 5];
43) Mental Health and Developmental Disabilities Code [405 ILCS 5];
44) Living Will Act [755 ILCS 35];
45) Health Care Surrogate Act [755 ILCS 45];
46) Right of Conscience Act [745 ILCS 70];
47) Illinois Optometric Practice Act of 1987 [225 ILCS 80];
48) Physician Assistant Practice Act of 1987 [220 ILCS 95];
49) Podiatric Medical Practice Act of 1987 [225 ILCS 100];

The following State of Illinois rules are referenced:

1) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690);
2) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693);
3) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750);
4) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890);
DEPARTMENT OF PUBLIC HEALTH

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5) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905);

6) Department of Public Health, Drinking Water Systems Code (77 Ill. Adm. Code 900);

7) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920);

8) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);

9) Department of Public Health Freedom of Information Code (2 Ill. Adm. Code 1126);

10) Department of Public Health Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395);

11) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696);

12) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100);

13) Department of Alcoholism and Substance Abuse, Alcoholism and Substance Abuse Treatment, Intervention and Research Programs (77 Ill. Adm. Code 2058);


d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions, additions or deletions subsequent to the date specified.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)
1) **Heading of the Part:** Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 350

3) **Section Numbers:**

   - 350.340

   **Proposed Action:** Amendment
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

350.2620 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A complete description of the subjects and issues:

Sections 350.340 (Incorporated and Referenced Materials), 350.2620 (Codes and Standards), and 350.3780 (Codes and Standards) are being amended to update incorporated and referenced materials, including incorporations of the 2000 edition of the National Fire Protection Association (NFPA) Life Safety Code for new facilities.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) Will this rulemaking replace an emergency rule currently in effect? Yes

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

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? Yes

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10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Intermediate care facilities for the developmentally disabled

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the Department’s most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were published.

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

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
### ILLINOIS REGISTER

**DEPARTMENT OF PUBLIC HEALTH**

**NOTICE OF PROPOSED AMENDMENTS**

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## NOTICE OF PROPOSED AMENDMENTS

### 350.340 Incorporated and Referenced Materials

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 350.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

   A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1998), which may be obtained from the American Dietetic Association, 216 West Jackson, Chicago, Illinois 60606-6995.

   B) American National Standards Institute, which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017:

      i) Standard No. A117.1-R1971, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped; and

      ii) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.
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B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.


E) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981), and the following standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:

i) No. 10 (1978): Standards for Portable Extinguishers


iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems


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viii) No. 253 (1978): Flooring Radiant Heat Energy Test

ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

x) Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F(G) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA) - Standard No. 101: Life Safety Code, Chapter 33 (1997), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

vii) NFPA 70E, Standard for Electrical Safety Requirements for
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Employee Workplaces – 2000 Edition


x) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition


H) Underwriters Laboratories, Inc. (UL), which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

i) Fire Resistance Directory (2003 Edition); and

ii) Building Material Directory (2003 Edition); and


I) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.

J) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.

K) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia
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22302.

2) Federal regulations:

A) 21 CFR 1306, Prescriptions (April 1, 2002).11 (Requirement of
Prescriptions), April 1, 1997; and

B) 21 CFR 1306.21 (Refilling of Prescriptions), April 1, 1997.

b) All incorporations by reference of federal regulations and the standards of
nationally recognized organizations refer to the regulations and standards on the
date specified and do not include any amendments or editions additions or
deletions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:


B) Social Security Act (42 U.S.C.A. 301 et seq., 1395 et seq. and
1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Court of Claims Act [705 ILCS 505]

E) Illinois Dental Practice Act [225 ILCS 25]

F) Election Code [10 ILCS 5]
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G) Freedom of Information Act [5 ILCS 140]
H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
I) Illinois Health Facilities Planning Act [20 ILCS 3906]
J) Hospital Licensing Act [210 ILCS 85]
L) Illinois Controlled Substances Act [720 ILCS 570]
M) Life Care Facilities Act [210 ILCS 40]
N) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
O) Medical Practice Act of 1987 [225 ILCS 60]
P) Mental Health and Developmental Disabilities Code [405 ILCS 5]
Q) Illinois Nursing Act of 1987 [225 ILCS 65]
R) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
S) Nursing Home Care Act [210 ILCS 45]
T) Illinois Occupational Therapy Practice Act [225 ILCS 75]
U) Pharmacy Practice Act of 1987 [225 ILCS 85]
V) Illinois Physical Therapy Act of 1985 [225 ILCS 90]
W) Private Sewage Disposal Licensing Act [225 ILCS 225]
X) Probate Act of 1975 [755 ILCS 5]
Y) Illinois Public Aid Code [305 ILCS 5]
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Z) Safety Glazing Materials Act [430 ILCS 60]
AA) Illinois Administrative Procedure Act [5 ILCS 100]
BB) Clinical Psychologist Licensing Act [225 ILCS 15]
CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
DD) Health Care Worker Background Check Act [225 ILCS 46]
FF) Cannabis Control Act [720 ILCS 550]
GG) Clinical Social Work Practice Act [225 ILCS 20]
HH) Living Will Act [755 ILCS 35]
II) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
JJ) Health Care Surrogate Act [755 ILCS 40]
KK) Right of Conscience Act [745 ILCS 70]
LL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]
MM) Supportive Residences Licensing Act [210 ILCS 65]
NN) Community Residential Alternatives Licensing Act [210 ILCS 40]
OO) Community Living Facilities Licensing Act [210 ILCS 35]
PP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
QQ) Counties Code [55 ILCS 5]
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RR) Illinois Act on the Aging [20 ILCS 105]

SS) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

TT) Assisted Living and Shared Housing Act [210 ILCS 9]

UU) Alternative Health Care Delivery Act [210 ILCS 3]

VV) Uniform Conviction Information Act [20 ILCS 2635]

WW) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

XX) Physician Assistant Practice Act of 1987 [225 ILCS 95]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)


C) Department of Public Health:

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

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x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
xi) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
xii) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

D) Department of Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse Treatment, Intervention and Research Programs (77 Ill. Adm. Code 2058)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 27 Ill. Reg. __________, effective _________________)
SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section 350.2620 Codes and Standards

a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of federal regulations or of any standards of a nationally recognized organization or association refers to the regulations and standards on the date specified and does not include any editions or amendments, additions or deletions, subsequent to the date specified.

1) State of Illinois rules

A) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health


C) Food Service Sanitation Code (77 Ill. Adm. Code 750), Department of Public Health

D) Boiler and Pressure Vessel Safety Code (41 Ill. Adm. Code 120), Office of the State Fire Marshal

2) Codes and standards

A) National Fire Protection Association (NFPA), Standard No. 101: Life Safety Code, 2000 Edition (New Health Care Occupancies - Residential - Custodial Care), including and all appropriate references under Chapter 33, and excluding Chapter 5, Performance Based Options, and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not be allowed to establish equivalencies for new construction. In addition to the publications referenced in Chapter 33, the following documents shall be applicable for all long-term care facilities:
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<td>vi)</td>
<td>NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition</td>
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<td>ix)</td>
<td>NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition</td>
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B) Underwriters Laboratories, Inc. (UL)

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D) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE):
   i) Handbook of Fundamentals, 2001
   ii) Handbook of Applications, 1999


F) American National Standards Institute:


b) In addition to compliance with the standards set forth herein, all building codes, ordinances and regulations that are enforced by city, county or other local jurisdictions in which the facility is, or will be, located shall must be observed.

c) Where no local building code exists, the recommendations of the 2000 Edition of the BOCA-International Building Code shall apply.


e) Amendments to this Section effective March 25, 2003, August 31, 1998, supersede all other codes and standards incorporated in this Subpart M.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)
1) **Heading of the Part:** Community Living Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 370

3) **Section Numbers:**
   - Proposed Action:
     - 370.715 Amendment
DEPARTMENT OF PUBLIC HEALTH
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4) **Statutory Authority:** Community Living Facilities Act [210 ILCS 35]

5) **A complete description of the subjects and issues:**

Section 370.715 implements the provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions, unless the Director approves the waiver in writing. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) **Will this rulemaking replace an emergency rule currently in effect?** Yes

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

8) **Does this rulemaking contain any incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State Mandate under the State Mandate Act [30 ILCS 805].

11) **Time, place, and manner in which interested persons may comment on this rulemaking:**

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder  
Division of Legal Services
DEPARTMENT OF PUBLIC HEALTH

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Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Community living facilities

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the Illinois Register on page 7953.

1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3) Section Numbers: Proposed Action:

390.340 Amendment
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

390.2620 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A complete description of the subjects and issues:

Sections 390.340 (Incorporated and Referenced Materials) and 390.2620 (Codes and Standards) are being amended to update incorporated and referenced materials, including incorporation of the 2000 edition of the National Fire Protection Association (NFPA) Life Safety Code for new facilities.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) Will this rulemaking replace an emergency rule currently in effect? Yes

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

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? Yes

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<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Ill. Reg. Citation</th>
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<tr>
<td>390.681</td>
<td>Amendment</td>
<td>27 Ill. Reg. 4995</td>
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</tbody>
</table>

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder
Division of Legal Services
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: long-term care facilities for persons under age 22.

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the Department’s most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were published.

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

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL PROVISIONS

Section 390.110 General Requirements
390.120 Application for License
390.130 Licensee
390.140 Issuance of an Initial License for a New Facility
390.150 Issuance of an Initial License Due to a Change of Ownership
390.160 Issuance of a Renewal License
390.165 Criteria for Adverse Licensure Actions
390.170 Denial of Initial License
390.175 Denial of Renewal of License
390.180 Revocation of License
390.190 Experimental Program Conflicting With Requirements
390.200 Inspections, Surveys, Evaluations and Consultation
390.210 Filing an Annual Attested Financial Statement
390.220 Information to be Made Available to the Public by the Department
390.230 Information to Be Made Available to the Public By the Licensee
390.240 Municipal Licensing
390.250 Ownership Disclosure
390.260 Issuance of Conditional Licenses
390.270 Monitor and Receivership
390.271 Presentation of Findings
390.272 Determination to Issue a Notice of Violation or Administrative Warning
390.274 Determination of the Level of a Violation
390.276 Notice of Violation
390.277 Administrative Warning
390.278 Plans of Correction
390.280 Reports of Correction
390.282 Conditions for Assessment of Penalties
390.284 Calculation of Penalties
390.286 Determination to Assess Penalties
390.288 Reduction or Waiver of Penalties
390.290 Quarterly List of Violators (Repealed)
390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
390.310 Department May Survey Facilities Formerly Licensed
390.315 Supported Congregate Living Arrangement Demonstration
390.320 Waivers
390.330 Definitions
DEPARTMENT OF PUBLIC HEALTH

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390.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
390.500 Administrator

SUBPART C: POLICIES

Section
390.610 Management Policies
390.620 Resident Care Policies
390.630 Admission and Discharge Policies
390.640 Contract Between Resident and Facility
390.650 Residents' Advisory Council
390.660 General Policies
390.670 Personnel Policies
390.675 Initial Health Evaluation for Employees
390.680 Child Care/Habilitation Aides
390.681 Health Care Worker Background Check
390.682 Resident Attendants
390.683 Registry of Child Care/Habilitation Aides
390.685 Student Interns
390.690 Disaster Preparedness
390.700 Serious Incidents and Accidents
390.750 Contacting Local Law Enforcement

SUBPART D: PERSONNEL

Section
390.810 General
390.820 Categories of Personnel
390.830 Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section
390.1010 Service Programs
390.1020 Medical Services
DEPARTMENT OF PUBLIC HEALTH

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390.1025 Life-Sustaining Treatments
390.1030 Physician Services
390.1035 Tuberculin Skin Test Procedures
390.1040 Nursing Services
390.1050 Dental Care Services
390.1060 Physical and Occupational Therapy Services
390.1070 Psychological Services
390.1080 Social Services
390.1090 Speech Pathology and Audiology Services
390.1100 Recreational and Activity Services
390.1110 Educational Services
390.1120 Work Activity and Prevocational Training Services

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section
390.1310 Restraints
390.1312 Nonemergency Use of Physical Restraints
390.1314 Emergency Use of Physical Restraints
390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320 Behavior Management
390.1330 Behavior Emergencies (Repealed)

SUBPART G: MEDICATIONS

Section
390.1410 Medication Policies and Procedures
390.1420 Compliance with Licensed Prescriber’s Orders
390.1430 Administration of Medication
390.1440 Labeling and Storage of Medications
390.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
390.1610 Resident Record Requirements
390.1620 Content of Medical Records
390.1630 Confidentiality of Resident's Records
390.1640 Records Pertaining to Residents' Property
DEPARTMENT OF PUBLIC HEALTH

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390.1650  Retention and Transfer of Resident Records
390.1660  Other Resident Record Requirements
390.1670  Staff Responsibility for Medical Records
390.1680  Retention of Facility Records
390.1690  Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
390.1810  Director of Food Services
390.1820  Dietary Staff in Addition to Director of Food Services
390.1830  Hygiene of Dietary Staff
390.1840  Diet Orders
390.1850  Meal Planning
390.1860  Infant and Therapeutic Diets
390.1870  Scheduling Meals
390.1880  Menus and Food Records
390.1890  Food Preparation and Service
390.1900  Preparation of Infant Formula
390.1910  Food Handling Sanitation
390.1920  Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
390.2010  Maintenance
390.2020  Housekeeping
390.2030  Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
390.2210  Furnishings
390.2220  Equipment and Supplies
390.2230  Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL
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Section
390.2410 Codes
390.2420 Water Supply
390.2430 Sewage Disposal
390.2440 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section
390.2610 Applicability of these Standards
390.2620 Codes and Standards
390.2630 Preparation of Drawings and Specifications
390.2640 Site
390.2650 Administration and Public Areas
390.2660 Nursing Unit
390.2670 Dining, Play, Activity/Program Rooms
390.2680 Therapy and Personal Care
390.2690 Service Departments
390.2700 General Building Requirements
390.2710 Structural
390.2720 Mechanical Systems
390.2730 Plumbing Systems
390.2740 Electrical Systems

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section
390.2910 Applicability
390.2920 Codes and Standards
390.2930 Preparation of Drawings and Specifications
390.2940 Site
390.2950 Administration and Public Areas
390.2960 Nursing Unit
390.2970 Play, Dining, Activity/Program Rooms
390.2980 Treatment and Personal Care
390.2990 Service Department
390.3000 General Building Requirements
390.3010 Structural
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390.3020 Mechanical Systems
390.3030 Plumbing Systems
390.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
390.3210 General
390.3220 Medical and Personal Care Program
390.3230 Restraints (Repealed)
390.3240 Abuse and Neglect
390.3250 Communication and Visitation
390.3260 Resident's Funds
390.3270 Residents' Advisory Council
390.3280 Contract With Facility
390.3290 Private Right of Action
390.3300 Transfer or Discharge
390.3310 Complaint Procedures
390.3320 Confidentiality
390.3330 Facility Implementation

SUBPART P: DAY CARE PROGRAMS

Section
390.3510 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
APPENDIX B Forms for Day Care in Long-Term Care Facilities
APPENDIX C Guidelines for the Use of Various Drugs
TABLE A Infant Feeding
TABLE B Daily Nutritional Requirements By Age Group
TABLE C Sound Transmissions Limitations
TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
TABLE E Sprinkler Requirements
TABLE F Heat Index Table/Apparent Temperature
DEPARTMENT OF PUBLIC HEALTH

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SUBPART A: GENERAL PROVISIONS

Section 390.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1998), which may be obtained from the American Dietetic Association, 216 West Jackson, Chicago, Illinois 60606-6995.

2) American National Standards Institute, which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017:
   A) Standard No. A117.1-R1971, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped; and
   B) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

3) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001) and Handbook of Applications (1999), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

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5) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:

A) No. 10 (1978): Standards for Portable Extinguishers
C) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems
G) No. 220 (1979): Standards Types of Building Construction
H) No. 253 (1978): Flooring Radiant Heat Energy Test
I) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

6) For new facilities (see Subpart M), the following standards of the National
DEPARTMENT OF PUBLIC HEALTH

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Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Chapter 33 (1997), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


x) NFPA 105, Recommended Practice for the Installation of Smoke–Control Door Assemblies – 1999 Edition


8) The following standards Underwriters Laboratories, Inc. (UL), which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd,
DEPARTMENT OF PUBLIC HEALTH

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Northbrook, Illinois  60062:

A) Fire Resistance Directory (2003 Edition) and

B) Building Material Directory (2003 Edition), and


9) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.

10) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.

11) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions, additions or deletions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:
   A) Civil Rights Act of 1964 (42 USC 2000e et seq.)
   B) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)
   C) Controlled Substances Act (21 USC 802)
DEPARTMENT OF PUBLIC HEALTH

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2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Civil Practice Act [735 ILCS 5]

E) Court of Claims Act [705 ILCS 505]

F) Illinois Dental Practice Act [225 ILCS 25]

G) Election Code [10 ILCS 5]

H) Freedom of Information Act [5 ILCS 140]

I) General Not For Profit Corporation Act [805 ILCS 105]

J) Hospital Licensing Act [210 ILCS 85]

K) Illinois Controlled Substances Act [720 ILCS 570]

L) Illinois Health Facilities Planning Act [20 ILCS 3906]


N) Life Care Facilities Act [210 ILCS 40]

O) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

P) Medical Practice Act of 1987 [225 ILCS 60]

Q) Mental Health and Developmental Disabilities Code [405 ILCS 5]

R) **Illinois-Nursing and Advanced Practice Nursing Act of 1987** [225 ILCS 410]
DEPARTMENT OF PUBLIC HEALTH

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ILCS 65]

S) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

T) Nursing Home Care Act [210 ILCS 45]

U) Illinois Occupational Therapy Practice Act [225 ILCS 75]

V) Pharmacy Practice Act of 1987 [225 ILCS 85]


X) Private Sewage Disposal Licensing Act [225 ILCS 225]

Y) Probate Act of 1975 [755 ILCS 5]

Z) Illinois Public Aid Code [305 ILCS 5]

AA) Safety Glazing Materials Act [430 ILCS 60]

BB) School Code [105 ILCS 5]

CC) Illinois Administrative Procedure Act [5 ILCS 100]

DD) Clinical Psychologist Licensing Act [225 ILCS 15]

EE) Dietetic and Nutrition Services Practices Act [225 ILCS 30]

FF) Health Care Worker Background Check Act [225 ILCS 46]


HH) Cannabis Control Act [720 ILCS 550]


JJ) Living Will Act [755 ILCS 35]

KK) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
DEPARTMENT OF PUBLIC HEALTH
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LL) Health Care Surrogate Act [755 ILCS 40]

MM) Right of Conscience Act [745 ILCS 70]

NN) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

OO) Supportive Residences Licensing Act [210 ILCS 65]

PP) Community Residential Alternatives Licensing Act [210 ILCS 40]

QQ) Community Living Facilities Licensing Act [210 ILCS 35]

RR) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

SS) Counties Code [55 ILCS 5]

TT) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

UU) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

VV) Physician Assistant Practice Act of 1987 [220 ILCS 95]

WW) Alternative Health Care Delivery Act [210 ILCS 3]

XX) Uniform Conviction Information Act [20 ILCS 2635]

YY) Wrongs to Children Act [720 ILCS 150]

ZZ) Criminal Jurisprudence Act [720 ILCS 115]

AAA) Assisted Living and Shared Housing Act [210 ILCS 9]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS


C) Department of Public Health

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

D) Department of Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse Treatment, Intervention and Research Programs (77 Ill. Adm. Code 2058)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 27 Ill. Reg. __________, effective ____________________)

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW FACILITIES

Section 390.2620 Codes and Standards

a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of federal regulations or of any standards of a nationally recognized organization or association refers to the regulations and standards on the date specified and does not include any amendments or editions, additions or deletions subsequent to the date specified.

1) State of Illinois rules

A) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health

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NOTICE OF PROPOSED AMENDMENTS

C) Food Service Sanitation Code (77 Ill. Adm. Code 750), Department of Public Health

D) Boiler and Pressure Vessel Safety Code (41 Ill. Adm. Code 120), Office of the State Fire Marshal

2) Codes and standards

A) National Fire Protection Association (NFPA), Standard No. 101: Life Safety Code, 2000 Edition (New Health Care Occupancies), including all appropriate references under Chapter 33, and excluding Chapter 5, Performance Based Options, and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not be allowed to establish equivalencies for new construction. In addition to the publications referenced in Chapter 33, the following documents shall be applicable for all long-term care facilities.


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS


ix) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition

B) Underwriters Laboratories, Inc. (UL):


D) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE):

i) Handbook of Fundamentals, 2001 Edition


F) American National Standards Institute (ANSI):


DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Escalators

b) In addition to compliance with the requirements set forth in this Section, all building codes, ordinances and regulations that are enforced by city, county or other local jurisdictions in which the facility is, or will be, located shall be observed.

c) Where no local building code exists, the recommendations of the 2000 Edition of the BOCA-International Building Code shall apply.


e) Pursuant to the Medicare/Medicaid certification requirements of 42 CFR 405.1134(a) (1983) and 42 CFR 442.321(c) (1983), any skilled nursing facility that on December 4, 1980, or on November 26, 1982, or any intermediate care facility that on November 26, 1982, complied with the requirements of the 1967 or 1973 edition of the Life Safety Code will be considered to be in compliance with Section 390.2620(a)(2)(A)(i), as long as the facility continues to remain in compliance with that edition of the Code.

Amendments to this Section effective March 25, 2003, supersede all other codes and standards incorporated in this Subpart M.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

1) Heading of the Part: Grade A Pasteurized Milk and Milk Products Act

2) Code Citation: 77 Ill. Adm. Code 775

3) Section Numbers: Proposed Action:

775.10 Amendment
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

775.20 Amendment
775.40 Amendment
775.50 Amendment
775.60 Amendment
775.70 Amendment
775.100 Amendment
775.110 Amendment
775.120 Amendment
775.130 Amendment
775.140 Amendment
775.150 Amendment

4) Statutory Authority:

Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

5) A Complete Description of the Subjects and Issues Involved:

This rulemaking will update references to several documents that are incorporated by reference in the Grade A Pasteurized Milk and Milk Products rules. Documents that are being updated include the Grade A Pasteurized Milk Ordinance (PMO), Methods of Making Sanitation Ratings of Milk Supplies (MMSR), and Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration (FDA) Program for Certification of Interstate Milk Shippers, all published by the FDA. References to federal regulations, including 21 CFR 131.110 (milk content standard) and 21 CFR 556 (Tolerances for Residues of New Animal Drugs in Food) are be updated to reflect the 2001 editions. Federal regulations entitled “Tolerances and Exemptions to Tolerances for Pesticide Chemicals in Food” (40 CFR 180) are being referenced in the rulemaking. Definitions that are being amended to reflect revised standards include, “dairy farm”, “milk”, and “milk product”. The rulemaking eliminates an obsolete reference to repealed Department rules and to a revised section of the PMO concerning minimum qualifications for local health department personnel. The rulemaking changes the term “milk hauler” to “milk hauler-sampler” and removes a requirement for milk hauler-sampler permit applicants to submit an new application if the permit examination is not completed within 12 months after application is made. The method for determining the violative level for added water in milk is revised to a level of 3% added water in either raw or pasteurized milk. Federal action levels of pesticides, herbicides, or mycotoxins are referenced in addition to existing action levels in the rules. The amendments also add
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

back the labels for “PCB” and “Heptachlor Epoxide” action levels, which were incorrectly omitted in an earlier rulemaking.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?
   Yes ___ No ___

7) Does this Rulemaking Contain an Automatic Repeal Date? Yes ___ No ___
   If "yes," please specify the date:

8) Does this Rulemaking Contain any Incorporations by Reference? Yes ___ No ___

9) Are there any Other Proposed Amendments Pending on this Part? Yes ___ No ___
   If yes:

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<th>Section Numbers</th>
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<th>Ill. Reg. Citation</th>
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10) Statement of Statewide Policy Objectives:

   This rulemaking does not create or expand any state mandates on units of local government.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

   Interested persons may present their comments concerning these rules by writing to:
   Peggy Snyder
   Division of Legal Services
   Illinois Department of Public Health
   535 West Jefferson, Fifth Floor
   Springfield, Illinois 62761
   (217)782-2043
   e-mail: rules@idph.state.il.us
   within 45 days after this issue of the Illinois Register.

   These rules may have an impact on small businesses. Small businesses commenting on these rules shall indicate their status as such, in writing, in their comments.
12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected:
   It is anticipated that the proposed changes will have minimum impact on dairy producers and processors.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
   None.

C) Types of Professional Skills Necessary for Compliance:
   None.

13) Date of regulatory agenda on which this rulemaking was summarized: This rulemaking was summarized on the Department’s January 2003 regulatory agenda.

The full text of the Proposed Amendments begins on the next page.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
775.10 Definitions
775.20 Incorporated Materials
775.30 Minimum Requirements
775.40 Local Government Implementation
775.50 Permits
775.60 Suspension of Permits
775.70 Inspections and Investigations
775.80 Approval of Construction Plans
775.90 Administrative Hearings
775.100 Milk Haulers Hauler-Samplers Examination
775.110 Milk Tank Trucks
775.120 Cleaning and Sanitizing Procedures
775.130 Action Levels for Added Water in Milk
775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program
775.150 Drug Residue Control Program

AUTHORITY: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].


Section 775.10 Definitions

In addition to the definitions contained in Section 1 of the Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Products and Dry Whey Supplement, the following definitions shall apply:

“Act" means the "Grade A Pasteurized Milk and Milk Products Act". [410 ILCS 635].

“Bulk milk pickup tank" means the, tank, and those appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station. (Section 3(b)(16) of the Act)

"Clarification" means an operational procedure that removes sediment from milk.
"Cleaning and sanitizing facility" means any place, premise or establishment where milk tank trucks are cleaned and sanitized. (Section 3(b)(15) of the Act)

"Cultured dairy products", means milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe suitable milk-clotting enzymes.

"Dairy Farm" means any place or premise where one or more cows, or goats or sheep are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station. (Section 3(b)(1) of the Act)

"Department" means the Illinois Department of Public Health. (Section 3(b)(7) of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(b)(8) of the Act)

"Down stream" means after the automatic milk flow safety device.

"Emargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products. (Section 3(b)(9) of the Act)

"Enforcing Agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act. (Section 3(b)(12) of the Act)

"Field Representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Grade A" means that milk and milk products are produced and processed in accordance with the latest United States Public Health Service - Food and Drug Administration Grade A Pasturized Milk Ordinance as may be amended. The term Grade A is applicable to "dairy farm", "milk hauler-sampler", "milk plant", "milk product", "milk tank trucks are cleaned and sanitized", "milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe suitable milk-clotting enzymes", "any place or premise where one or more cows, or goats or sheep are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station", "the Illinois Department of Public Health", "the Director of the Illinois Department of Public Health", "after the automatic milk flow safety device", " detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products", "the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act", "a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work", "that milk and milk products are produced and processed in accordance with the latest United States Public Health Service - Food and Drug Administration Grade A Pasturized Milk Ordinance as may be amended".
"receiving station", "transfer station", "bulk milk pickup tank", and certified pasteurizer sealer” whenever used in this Act. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "H.T.S.T." means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation (1) that should be corrected immediately to prevent injury and (2) that should not be permitted to continue while a hearing or other formal proceeding is being held. (Section 3(b)(10) of the Act)

"Milk" means the milk of cows, or goats or sheep and includes skim milk and cream. (Section 3(b)(2) of the Act)


"Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and State quality standards and procedures. (Section 3(b)(14) of the Act)

"Milk Product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour light cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, non-fat (skim) skim milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk, or nonfat (skim) skim milk, cottage cheese (including dry curd, reduced fat, and lowfat, and nonfat), yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, or nonfat (skim) skim milk, low-sodium milk, low-sodium reduced fat lowfat milk, low-sodium nonfat (skim) skim milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat (skim) skim milk, aseptically processed and packaged milk and milk products, and milk, reduced fat, lowfat milk or nonfat (skim) skim milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or
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mineral fortification of milk products defined in this Section. (Section 3(b)(4) of the Act)

"Milk tank truck" is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

"Milk transport tank" means a vehicle including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"PMO" means Grade A Pasteurized Milk Ordinance incorporated by reference. (See Section 775.20.)

"Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in the Act and this Part. (Section 3(b)(13) of the Act)

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or Department thereof, or any other entity. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"Transfer station" means any place, premise, or establishment where milk or milk products are transferred directly from one milk tank to another. (Section 3(b)(6) of the Act)

"Violative Drug Residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 C.F.R. 556 (1999-2001) and Appendix N of the PMO.

(Source: Amended at 27 Ill. Reg. ____________, effective ________________.)
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Section 775.20  Incorporated Materials

a)  The following regulations and statutes are incorporated or referenced in this Part:

1)  Federal government publications:

   A)  The Grade A Pasteurized Milk Ordinance (PMO), and Appendixes A through P (except Sections 16 and 17) Recommendations of the United States Public Health Service/Food and Drug Administration, 1999 2001 Revision (Publication 229). In addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. See Section 775.30(a).

   B)  The Grade A Condensed and Dry Milk Ordinance, 1995 Revision, Part II and Appendixes A through N (Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 Recommendations). See Section 775.30(b).


2)  Private and professional standards:

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18th Street, N.W., Washington, D.C. 20036). See Section 775.70(b).


3) Federal regulations:

A) 21 CFR 131.110 (1999 2001). (See Section 775.10, the definition of "milkfat and nonfat solid content standards.")

B) 21 CFR 556 (1999 2001). (See Section 775.10, the definition of "violative drug residue").

C) 40 CFR 180 (2001). (See Section 775.140(a)(1)

4) State of Illinois rules and statutes:


B) Minimum Qualifications for Public Health Personnel Employed by Full-time Local Health Departments - 77 Ill. Adm. Code 600.700 to 600.740, Illinois Department of Public Health. (See Section 775.740.)


b) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All citations to federal regulations in this Part concern the specified regulation in
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the 1999 2001 Code of Federal Regulations, unless another date is specified.

d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 27 Ill. Reg. ________________, effective ________________)

Section 775.40 Local Government Implementation

If a unit of local government with a population of 1,000,000 or more adopts its own ordinance, then the unit of local government must comply with this Part, and the Department's rules entitled "Minimum Qualifications for Public Health Personnel Employed by Full Time Local Health Departments concerning Environmental Health Personnel (77 Ill. Adm. Code 600.700 to 600.740)" (See Section 775.20). In addition, surveillance officers must be certified by the federal Food and Drug Administration as required by Section 6 of the PMO.

(Source: Amended at 27 Ill. Reg. ________________, effective ________________)

Section 775.50 Permits

No person may establish, maintain, conduct, or operated a dairy farm, milk plant, receiving station, transfer station, or cleaning and sanitizing facility to process or haul milk or milk products or bring in and distribute pasteurized milk or milk products from another state without a permit from the Department. (Section 5 of the Act)

a) A permit shall be granted to and renewed for persons, who maintain, conduct, or operated a milk plant, receiving station, transfer station, and cleaning and sanitizing facilities, within the State of Illinois by the Department upon completion of an inspection which establishes compliance with the Act and this Part and upon payment of the fee required by Section 5.1 of the Act. Milk plants which maintain cleaning and sanitizing facilities on the same site as the plant do not have to obtain a separate permit for such facilities.

b) A permit shall be granted to and renewed for persons who bring into and distribute pasteurized milk or milk products from another state which has rules, regulations or requirements that provide for clean, sanitary and safe handling and processing of pasteurized milk and milk products to ensure protection equivalent to that provided by this Part upon receipt of an inspection report which establishes compliance with the State's Rules, Regulations or Requirements and upon
payment of the fee required by Section 5.1 of the Act.

c) An original permit shall be granted to a milk hauler-sampler when the following conditions are met:

1) An inspection establishes that the hauler's milk hauler-sampler's equipment is in compliance with the provisions of the Act and this Part,

2) The milk hauler-sampler has successfully completed and examination administered by the Department, and

3) The milk hauler-sampler has paid the fee required by Section 5.1 of the Act.

d) A renewal permit shall be granted to a milk hauler-sampler when an inspection establishes that the milk hauler-sampler’s equipment and sampling procedures are in compliance with the provisions of the Act and this Part and upon payment of the fee required by Section 5.1 of the Act.

e) Farm Permits

1) An original dairy farm permit is necessary when a farm does not presently hold a permit, a change of ownership occurs and only the farm owner's name was on the permit, and when a change of tenant occurs and only the former tenant's name was on the permit.

2) An original dairy farm permit shall be granted to a dairy farm upon the completion of an inspection which established compliance with the Act and this Part. The inspection includes procedures for the establishment of a quality record. The quality record is established by the results of four samples taken at a rate of not more than two per week and on separate days within a three week period.

e) A renewal permit shall be granted to a Milk Hauler or when an inspection establishes that the hauler's equipment and sampling procedures are in compliance with the provisions of the Act and this Part and upon payment of the fee required by Section 5.1 of the Act.

(Source: Amended at 27 Ill. Reg. ________________, effective ________________)
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Section 775.60 Suspension of Permits

The Department shall suspend permits in accordance with the provisions of Sections 3, 5 and 6 of the PMO and the following:

a) All suspensions, except summary suspensions, shall be proceeded by the notice and opportunity for a hearing in accordance with Section 775.90 of this Part. All summary suspensions shall be based upon violations of the Act, the PMO or this Part which constitute a finding that the public interest, safety or welfare imperatively requires such action in accordance with Section 10-65(d) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d)). In addition, all summary suspensions shall be followed by notice and an opportunity for a hearing in accordance with 775.90 of this Part.

b) If a dairy farm, milk hauler-sampler, receiving and transferring station, cleaning and sanitizing facility or milk plant receives two suspensions in six months, an informal conference will be held to discuss corrective measures. If the violations resulting in the most recent suspension are not corrected after this conference, administrative hearing proceeding will be initiated pursuant to Section 775.90 of this Part.

c) When successive inspections pursuant to Section 5 of the PMO disclose violations of the same requirement that directly reflect on the health of the public such as unclean equipment and improper temperature requirements the suspension policy in Section 5 shall be enforced.

d) The suspension policies in the PMO may be waived as determined by the inspector's professional judgement dependent upon the amount of time required for the permit holder to make the necessary corrections, the reasonableness of requiring corrections prior to the next inspection and the potential for a health hazard created by the violation.

(Source: Amended at 27 Ill. Reg. _____________, effective _____________)

Section 775.70 Inspections and Investigations

a) The Department shall inspect and investigate complaints concerning dairy farms, milk plants, cleaning and sanitizing facilities, receiving stations, transfer stations, milk haulers hauler-samplers, or vehicles milk tank trucks used to transport milk
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and milk products under its jurisdiction, for the purpose of determining compliance with the Act and this Part. (Section 10 of this Act.)

b) When conducting inspections pursuant to Section 5 of the PMO, the Department will utilize the Standard Methods for the Examination of Dairy Products and Official Methods of Analysis of the Association of Official Analytical Chemists. (See Section 775.20)

c) Written notice of all violations shall be given to the dairy farm, milk plant, cleaning and sanitizing facility, receiving or transfer station, milk hauler, sampler or milk tank truck owner/operator after any inspection or investigation. (Section 10 of the Act.)

(Source: Amended at 27 Ill. Reg. ____________ , effective ________________)

Section 775.100 Milk Haulers Hauler-Samplers Examination

The milk haulers hauler-samplers examination consists of both a written and practical section. The written section concerns the following topics: the standards for determining the acceptability of milk, sampling procedures, measurement procedures, care of equipment, collection procedures on the farm and information required on "weight tickets" and "cleaning-sanitizing tags". The practical section concerns the following topics: the proper design of equipment for complete protection of the product, construction and repair standards which facilitate thorough cleaning, effective bactericidal treatment and sampling procedures. Each applicant who fails to attain a minimum 70% passing score on the examination shall submit a new application. Each applicant who fails to take the examination within twelve (12) months of submission of the application and fee must submit a new application and fee to be eligible to take the examination. Examinations shall be administered by the Department upon request.

(Source: Amended at 27 Ill. Reg. ____________ , effective ________________)

Section 775.110 Milk Tank Trucks

a) A milk tank truck may only be used to transport the following products which are intended for and suitable for human consumption:

1) Milk

2) Raw Milk
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3) Milk Products
4) Whey and Whey Products
5) Potable Water
6) Liquid Sweeteners
7) Fruit Juices and Drinks
8) Liquified Chocolate and Coca Products
9) Liquid Pasteurized Eggs and Egg Products
10) Vinegar
11) Food Colorings
12) Vegetable Oils

b) A milk tank truck must be cleaned and sanitized prior to the introduction of the milk or milk products according to part H, section Section 7, items 1p, 2p (climatic and operating conditions), 3p (climatic and operating conditions) 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, 22p and Appendix f F of the PMO. (Section 14.1(b) of the Act.)

c) Each milk tank truck used to haul milk must have a log maintained by the the owner of the the truck. This log must consist of the following:

1) The date or dates of each trip taken by the milk tank truck;
2) The name of the substance hauled by the milk tank truck;
3) The date the milk tank truck was cleaned and sanitized;
4) The location where the milk tank truck was cleaned and sanitized;
5) Such other information deemed necessary by the Department to enforce this Act.
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6) The log for a milk tank truck shall be available upon request. (Section 14.1(e) of this Act.)

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)

Section 775.120 Cleaning and Sanitizing Procedures

Milk tank trucks used to haul Grade A milk and milk products must be cleaned and sanitized in accordance with Part II, Section 7, items 10r and 11r or item 12p and Appendix F of the PMO. A Contrary to Part II, Section 7 item 12p of the PMO, a cleaning and sanitizing tag shall be attached to all milk tank trucks used to haul Grade A Milk and Milk Products. In addition, the tag must reflect the name of substance hauled in the milk tank truck prior to being cleaned and sanitized.

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)

Section 775.130 Action Levels for Added Water in Milk

The presence of added water in raw or pasteurized milk constitutes adulteration. The presence of violative level for added water in either raw or pasteurized milk is equal to or higher than 3% indicated by when converted from a milk cryoscope reading of -.524 on the Hortvet or -.507 Centigrade scale or higher when tested in accordance with the 16th edition of the Standard Methods for the Examination of Dairy Products. After two occurrences of adulterated milk within a six-month period, the plant or producer will be required to show cause and reason for the addition of water. After a third occurrence, the Department will institute administrative proceedings to revoke the plant or producer's permit.

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)

Section 775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program

a) The following describes the Department's Pesticide, Herbicide and Mycotoxin residue control program for Grade A raw milk under Section 6, of the PMO.

1) If the analysis of a sample from a bulk milk tank truck shows a level of any of the pesticides, herbicide or mycotoxin above the action levels contained in subsection (b) of this Section or of action levels published in federal regulations at 40 CFR 180 for other pesticides, herbicides, or
mycotoxins, then an individual sample is collected from each producer's milk that was in the milk tank truck to determine which producer or producers have created or contributed to the problem.

2) When the individual resampling is complete and the test indicates high pesticide, herbicide or mycotoxin residue levels equal to or above action level another sample will be taken within 15 days to determine whether this adulteration is continual or has been a one time situation.

3) If the second sample under subsection (a)(2) of this Section shows an action level equal to or greater than those contained in subsection (b) of this Section, then all of the producer's milk will be removed from the market and not offered for sale for human consumption until an official sample test shows the residue falls below the action level.

4) The milk supply will then be provisionally reinstated for human use and samples will be taken on a monthly basis. Should the next sample be above action level, the milk will again be removed from the market and not offered for sale for human consumption.

5) When two consecutive monthly samples are below the action level, the producer's supply shall be fully reinstated.

b) The following Action levels have been established for the Pesticide, Herbicide or Mycotoxin Residue Control Program (PPM=parts per million; PPB=parts per billion):

1) Aldrin - 0.3 PPM

2) Dieldrin - 0.3 PPM

3) Endrin - 0.3 PPM

4) Lindane - 0.3 PPM

5) Heptachlor or Heptachlor Epoxide - the action level for either Heptachlor Epoxide or both combined is 0.1 PPM

6) PCB 1.5 PPM
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7) Aflatoxin - 0.5 PPB
8) D.D.T. - 1.25 PPM

(Source: Amended at 27 Ill. Reg. ________________, effective ________________)

Section 775.150 Drug Residue Control Program

a) Equipment used to administer drugs and medicines shall not be cleaned in the wash vats and shall be stored so as not to contaminate the milk or milk contact surfaces of equipment.

b) Drugs and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surface of the equipment, containers or utensils. Such products shall be properly labeled to include:

1) The name and address of the manufacturer or distributor (for O.T.C. medicines and drugs), or veterinary practitioner dispensing the product (for Rx and Extra-Label use medicines and drugs);

2) Directions for use, and prescribed holding times;

3) Cautionary statements, if needed; and

4) Active ingredients in the drug product.

c) Unapproved and/or improperly labeled drugs and medicines shall not be used to treat dairy animals and shall not be stored in the milkhouse, milking barn, stable or parlor. Drugs and medicines intended for treatment of non-lactating dairy animals shall be segregated from those drugs and medicines used for lactating animals. (Separate shelves in cabinets, refrigerators, or other storage facilities satisfy this item.)

d) Topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage from form vitamins and/or mineral products are exempt from labeling and storage requirements except when it is determined that they are stored in such a manner that they may contaminate the milk or milk product surfaces of containers or utensils.
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e) The following describes the Department's Drug residue control program for Grade A raw milk under Section 6 of the PMO.

1) If the analysis of a sample from a bulk milk pickup tanker or milk received directly from the farm bulk tank shows any drug residue at or above the tolerances and/or safe levels of drug residues as established by Appendix N of the PMO, then the individual sample collected from each producer's milk that was in the bulk milk pickup tanker is tested to determine which producer or producers have created or contributed to the drug residue.

2) When the individual sample testing is complete and the tests indicate a violative drug residue, the producer's or producers' Grade A permit will be summarily suspended. Another sample will be taken from milk produced after corrections have been made to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit.

3) If the resample shows no violative drug residue, the suspended Grade A permit will be conditionally reinstated for up to 30 days. The producer and a licensed veterinarian must complete a quality assurance (QA) program, within the 30 day conditional reinstatement of the Grade A permit.

4) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate, signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.

f) The following describes the penalty procedures for the Department’s drug residue control program for Grade A raw milk.

1) These procedures shall be followed when individual sample testing for drug residues has been completed, test results indicate a violative drug residue, and the producer's or producers' Grade A permit is summarily suspended, in accordance with subsection (e) of this Section. The producer or producers shall submit to the Department an equivalent penalty to the 96 hour period following the violative shipment for the second and third occurrences, in any 12 month period. The equivalent penalty for the
second and third occurrences shall be $4.00 per hundred weight of the milk produced during the 96 hours following the violative shipment. The penalty shall be paid to the Department by the first buyer of the milk, by the last day of the month immediately following the violation. Following the third occurrence of a drug residue violation in any 12 month period, the Department shall initiate administrative procedures, pursuant to Section 775.90, to permanently revoke the producer's permit.

2) The producer's Grade A permit will be conditionally reinstated for up to 30 days when a subsequent sample of the producer's milk does not contain a violative drug residue. The producer and a licensed veterinarian must complete a quality assurance (QA) program within the 30 day conditional reinstatement of the Grade A permit.

3) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.

g) All monies collected through the drug residue control program and deposited in the Food and Drug Safety Fund will be dedicated to drug residue prevention efforts, producer education and providing information in the prevention of drug residues.

(Source: Amended at 27 Ill. Reg. ________________, effective ________________)

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1) **Heading of the Part**: Tobacco Product Manufacturers’ Escrow Enforcement Act

2) **Code Citation**: 14 Ill. Adm. Code 250

3) **Section Numbers**: Adopted Action:
   - 250.10 New
   - 250.20 New
   - 250.30 New
   - 250.40 New
   - 250.50 New

4) **Statutory Authority**: 30 ILCS 169/25

5) **Effective Date of Rules**: April 16, 2003

6) Does this rulemaking contain an automatic repeal date?___ Yes ___ No If so, please specify date:

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

8) A copy of the adopted rule is on file and is available for public inspection in the Attorney General’s principal office in Chicago (12th Floor, James R. Thompson Center).

9) **Notice of Proposal Published in Illinois Register**:
   - December 20, 2002, 26 Ill. Reg. 17869
   (issue date)

10) **Has JCAR issued a Statement of Objections to this (these) rule(s)?** No

11) **Differences between proposal and final version**: Only two, non-substantive changes were made to the name of the Part and the tense of a verb.

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 rule replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No
15) **Summary and Purpose of Rule:** These rules are adopted to provide enforcement of the Tobacco Product Manufacturers’ Escrow Act [30 ILCS 168] in accordance with the Tobacco Product Manufacturers’ Escrow Enforcement Act [30 ILCS 169]. Distributors of cigarettes are prohibited from affixing stamps to individual packages of cigarettes or distributing roll-your-own tobacco if the tobacco product manufacturer has failed to become a participating manufacturer or failed to create a qualified escrow. Distributors are required to report quarterly to the AGO regarding the sale of non-participating manufacturer (NPM) tobacco products. The rules specify the information that must be reported and provide a way for distributors to identify participating manufacturers and those who have created the qualified escrow.

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

Name: Benjamin C. Weinberg  
Chief, Public Interest Division  
Address: Office of the Attorney General  
100 West Randolph Street - 12th Floor  
Chicago, Illinois 60601  
Telephone: (312) 814-5223

The full text of the Adopted Rules begins on the next page.
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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER II: ATTORNEY GENERAL

PART 250
TOBACCO PRODUCT MANUFACTURERS’ ESCROW ENFORCEMENT ACT

Section
250.10 General
250.20 Definitions
250.30 Distributor Filings
250.40 Prohibition of Sales of Noncompliant NPM Cigarettes
250.50 Violations

AUTHORITY: Implementing and authorized by Section 25 of the Tobacco Product Manufacturers’ Escrow Enforcement Act [30 ILCS 169].


Section 250.10 General

This Part provides for enforcement of the Tobacco Product Manufacturers’ Escrow Act [30 ILCS 168], in accordance with the Tobacco Product Manufacturers’ Escrow Enforcement Act [30 ILCS 169] (see P.A. 92-0737). The former Act, passed as a result of the Master Settlement Agreement (MSA) entered into between 46 states, including Illinois, and the major tobacco companies, requires tobacco product manufacturers not participating in the MSA to set up qualified escrow accounts and to deposit funds into the accounts based on the number of manufacturers’ cigarettes sold in each state. The latter Act provides for enforcement of the escrow obligations.

Section 250.20 Definitions

“AGO” means the Illinois Attorney General’s Office.

“Cigarette” means that term as defined in Section 10 of the Escrow Act [30 ILCS 168], which includes roll-your-own tobacco.

“Department” means the Illinois Department of Revenue.
“Distributor” has the same meaning prescribed in Section 1 of the Cigarette Tax Act [35 ILCS 130], and Section 1 of the Cigarette Use Tax Act [35 ILCS 135], and, in addition, means a distributor of roll-your-own tobacco in accordance with Section 10-5 of the Tobacco Products Tax Act of 1995 [35 ILCS 143], as appropriate.

“Escrow Act” means the Tobacco Product Manufacturers’ Escrow Act [30 ILCS 168].


“Filed” means received by the AGO in readable form, however transmitted, or postmarked for delivery by the U.S. mail.

“Liability year” means the calendar year in which a tobacco product manufacturer’s cigarettes are sold in Illinois and to which the requirements of the Escrow Act apply.

“NPM” means non-participating manufacturer.

“Participating manufacturer” has the same meaning prescribed in Section 15(a)(1) of the Escrow Act [30 ILCS 168].

“Stamps or imprints” means revenue tax stamps or imprints as provided for in Section 3 of the Cigarette Tax Act or stamps or imprints evidencing the payment of cigarette use tax as provided for in Section 3 of the Cigarette Use Tax Act, as appropriate.

“Tobacco product manufacturer” has the same meaning prescribed in Section 10 of the Escrow Act.

Section 250.30 Distributor Filings

a) Each distributor shall report quarterly to the AGO on paper or electronic forms provided by the AGO such information as is necessary for the AGO to ascertain the quantity of each NPM’s cigarettes sold in Illinois by the distributor during the preceding quarter. The quarterly information to be reported shall include:
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1) The number of each NPM’s cigarettes sold by the distributor within Illinois, by brand.
2) The number of ounces of each NPM’s roll-your-own tobacco sold by the distributor within Illinois, by brand.
3) The NPM name and address for each brand.
4) The name and address of the person from whom the distributor purchased the brand.
5) The name and address of the first importer of foreign NPM brands.

b) The information required by subsection (a) shall be filed by the 15th day of the month following the end of the reporting quarter. The filing for:
   1) January, February, and March is due on or before April 15.
   2) April, May, and June is due on or before July 15.
   3) July, August, and September is due on or before October 15.
   4) October, November, and December is due on or before January 15 of the following year.

c) Distributors not selling any NPM brands for the relevant time period shall timely file a form as described in subsection (a) marked “none”.

d) Distributors shall keep all records relating to or reflecting purchases and sales of NPM cigarettes, which records provide a basis for the filings under subsection (a), for a period of not less than three years after the date of sale.

e) Distributors not complying with this Section 250.30, or filing false or inaccurate information with the AGO, may be deemed to be in violation of the Escrow Enforcement Act and dealt with in accordance with Section 250.50.

Section 250.40 Prohibition of Sales of Noncompliant NPM Cigarettes

a) As set forth in Section 15(a) of the Escrow Enforcement Act, a distributor shall not affix or cause to be affixed stamps or imprints to individual packages of
cigarettes delivered or cause to be delivered by the distributor in Illinois, and may
not otherwise deliver or cause to be delivered in Illinois cigarettes in the form of
roll-your-own tobacco, if the tobacco product manufacturer of those cigarettes,
including roll-your-own tobacco, has:

1) failed to become a participating manufacturer; or

2) failed to create a qualified escrow fund for any cigarettes manufactured by
the tobacco product manufacturer and sold in Illinois or otherwise failed to
bring itself into compliance with Section 15(a)(2) of the Escrow Act.
Compliance includes payment by the manufacturer of the statutorily-
prescribed amount into the escrow fund in a timely manner and, where the
manufacturer has not timely complied, payment of statutorily-prescribed
penalties pursuant to 15(a)(2)(C) of the Escrow Act.

b) The AGO shall publish a list of participating manufacturers and a list of
compliant NPMs who have created a qualified escrow fund and who are otherwise
in compliance with Section 15(a)(2) of the Escrow Act. The lists shall be
published on the AGO’s web site (www.ag.state.il.us) and shall be revised as new
information is received by the AGO.

c) Distributors who affix or cause to be affixed stamps or imprints to packages of
cigarettes manufactured by a tobacco product manufacturer whose name appears
on the list of participating manufacturers or on the list of compliant NPMs on the
date of stamping or imprinting shall not be deemed to have violated Section 15 of
the Escrow Enforcement Act by virtue of that conduct.

d) Distributors who deliver or cause to be delivered roll-your-own tobacco
manufactured by a tobacco product manufacturer whose name appears on the list
of participating manufacturers or on the list of compliant NPMs on the date of
delivery shall not be deemed to have violated Section 15 of the Escrow
Enforcement Act or subsection (a) of this Section by virtue of that conduct. For
purposes of this subsection, “delivery” means sale or otherwise passing out of the
possession, custody and control of the distributor.

e) For purposes of enforcement proceedings in accordance with Section 250.50 of
this Part, a distributor shall have as a defense the fact that its conduct falls within
that permitted by subsection (c) or (d), provided, however, that the burden shall be
on the distributor to establish the defense through documentation prepared
f) The AGO shall not place an NPM on the list of compliant NPMs provided for in subsection (b) unless:

1) the NPM has had sales in one or more liability years prior to the date of the list’s publication and is in full compliance with its escrow requirements under the Escrow Act as to such sales, including the payment of any applicable penalties under the Escrow Act; or

2) the NPM, not having had sales in one or more prior liability years:
   A) has established a qualified escrow account under the Escrow Act; and
   B) is in fact depositing funds into the account on a quarterly basis based on sales of its cigarettes in Illinois during its first liability year of sales.

g) In determining compliance for purposes of placing an NPM on the list of compliant NPMs, the AGO may consider distributor filings provided for in Section 250.30; the NPM’s escrow agreement, if any, submitted to the AGO; the NPM’s timely deposit of the requisite funds into the escrow account; the requirements for placement on the list as set forth in this Part; and other relevant facts that may come to the attention of the AGO. Any NPM dissatisfied with the AGO’s determination of compliance may submit documents relevant to the determination to the AGO and request review of the determination by an Assistant Attorney General who is designated by the Attorney General to undertake such reviews and who did not participate in the initial determination.

h) A distributor that affixes or causes to be affixed stamps or imprints to individual packages of cigarettes for delivery in Illinois, or that otherwise delivers or causes to be delivered in Illinois cigarettes in the form of roll-your-own tobacco, which cigarettes are manufactured by a tobacco product manufacturer whose name:

1) on the date of stamping or imprinting, in the case of individual packages of non-roll-your-own cigarettes, or
2) on the date of delivery in the case of roll-your-own cigarettes, does not appear on either the list of participating manufacturers or the list of compliant NPMs, may be deemed to be in violation of the Escrow Enforcement Act and dealt with in accordance with Section 250.50.

Section 250.50 Violations

The AGO may investigate conduct that appears to be in violation of the Escrow Enforcement Act or of this Part and may request the assistance of the Department in accordance with its investigatory powers under the Cigarette Tax Act [35 ILCS 130], the Cigarette Use Tax Act [35 ILCS 135], or the Tobacco Products Tax Act of 1995 [35 ILCS 143]. If the AGO determines that a violation has occurred, it shall give written notice to the distributor that has committed the violation and shall provide written notice of the violation to the Director of the Department of Revenue, including copies of any documents evidencing the violation and a recommendation for revocation or suspension of license pursuant to Section 6 of the Cigarette Tax Act, Section 6 of the Cigarette Use Tax Act, or Section 10-25 of the Tobacco Products Tax Act of 1995, as appropriate.
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

1) The Heading of the Part: Rulemaking, Public Information and Organization

2) Code Citation: 2 Ill. Adm. 3300

3) Section Numbers: Adopted Action:
   3300.100    New
   3300.200    New
   3300.210    New
   3300.220    New
   3300.230    New
   3300.240    New
   3300.250    New
   3300.260    New
   3300.300    New
   3300.310    New
   3300.320    New
   3300.330    New
   3300.340    New
   3300.350    New
   3300.360    New
   3300.370    New
   3300.380    New
   3300.390    New
   3300.Appendix A New

4) Statutory Authority: Implementing the Deaf and Hard of Hearing Commission Act (20 ILCS 3932) and authorized by the Illinois Administrative Procedure Act (5 ILCS 100).

5) Effective Date of Rules(s): April 21, 2003

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

7) Does these proposed amendments contain incorporations by reference? No

8) A statement that a copy of the adopted rule including any material incorporated, in on file in the agency’s principal office and is available for public inspection. Yes

9) Notice(s) of Proposed Published in the Illinois Register:
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

26 Ill. Reg. 16390

10) Has JCAR issued a Statement of Objections to this (these) rules(s)? If answer is “yes,” please complete the following:
   
   A) Statement of Objection: ______________, _____ Ill. Reg._______
      (issue date)
   
   B) Agency Response: ______________, _____ Ill. Reg._______
      (issue date)
   
   C) Date Agency Response Submitted for Approval to JCAR:

11) Difference(s) between proposal and final version:

First Notice Changes to 26 Ill. Reg. 16390

1. In line 167, change “Commission” to Commissioners” and “agency” to “Commission”.

2. In line 317, after “Commission.” A new language added, “A 2/3 majority vote of the total membership, discounting vacant seats not currently filled by the Governor, at a regularly scheduled or emergency meeting of the Commission is required to remove the Director from office.”

Second Notice Changes to 26 Ill. Reg. 16390

1. In line 189, delete “The chair shall also:”.

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 (these) rule(s) replace and emergency rule currently in effect? No

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

15) Summary and Purpose of Rule(s): This rulemaking clearly explains our rulemaking procedures, how the public can access to agency’s information that are available to the public and the organization of the agency.
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

15) Information and questions regarding this (these) adopted rule(s) shall be directed to:

Name: Gerald Covell, Director
Address: Deaf and Hard of Hearing Commission
         1630 S. Sixth Street
         Springfield, Illinois 62703
Telephone: (217) 557-4495 (Voice/TTY)

The full text of the Adopted Rule(s) begins on the next page:
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXIII: DEAF AND HARD OF HEARING COMMISSION

PART 3300
RULEMAKING, PUBLIC INFORMATION AND ORGANIZATION

SUBPART A: RULEMAKING

Section 3300.100 Rulemaking Procedures

SUBPART B: PUBLIC INFORMATION

Section
3300.200 Submission of Requests
3300.210 Timeliness for Commission Response
3300.220 Types of Commission Responses
3300.230 Appeal of Denied Request
3300.240 Director's Response to Appeal
3300.250 Fee for Copies of Public Records
3300.260 Inspection of Public Records at Commission Office

SUBPART C: ORGANIZATION

Section
3300.300 Commission Powers and Duties
3300.310 Commission Membership, Terms of Office and Vacancies
3300.320 Officers, Responsibilities, Removal and Vacancies
3300.330 Members’ Responsibilities and Duties
3300.340 Meetings, Notice and Place of Meetings
3300.350 Quorum and Voting
3300.360 Public Participation
3300.370 Task Force/Committee Establishment, Reimbursement, Liaison and Appointment
3300.380 Director and Staff
3300.390 Parliamentary Procedures

3300.APPENDIX A Organizational Chart
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

AUTHORITY: Implementing the Deaf and Hard of Hearing Commission Act [20 ILCS 3932] and authorized by the Illinois Administrative Procedure Act [5 ILCS 100].


SUBPART A: RULEMAKING

Section 3300.100 Rulemaking Procedures

Rules governing the Illinois Deaf and Hard of Hearing Commission are proposed, adopted or repealed pursuant to the Illinois Administrative Procedure Act [5 ILCS 100].

SUBPART B: PUBLIC INFORMATION

Section 3300.200 Submission of Requests

a) All requests for public information are to be in writing unless, because of a disability, the individual is unable to prepare a written request, oral requests will be accepted. All requests must be submitted to:

Freedom of Information Officer
Illinois Deaf and Hard of Hearing Commission
1630 South Sixth Street
Springfield IL 62703

b) All requests shall include:

1) The full name, address and phone number of the requesting individual;

2) A specific description of the records sought;

3) Whether the request is for copies of records, inspection of records, or both; and

4) Whether the requestor wants copies of public records “certified”. The Freedom of Information officer shall provide the appropriate FOI certification, when requested.

Section 3300.210 Timeliness for Commission Response
DEAF AND HARD OF HEARING COMMISSION

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a) The Commission shall respond to written request for public records within 7 working days after receipt of the request.

b) In the event that the request for public records cannot be responded to within 7 working days for one of the reasons provided in Section 3(d) of the Freedom of Information Act, the Commission shall have an additional 7 working days in which to respond. The Commission shall give the requestor notice of the extension of time to respond. The notice of extension shall set forth the reasons why the extension is necessary.

Section 3300.220 Types of Commission Responses

a) The Commission shall respond to a request in three ways:

1) The request may be granted; in which case the material requested will be sent, written notice will be sent stating materials will be made available upon receipt of reproduction costs, or written notice will be sent indicating the time and place for inspection of the records.

2) The request may be denied, in which case the requesting individual will be sent a letter stating the reason for the denial in accordance with either Section 3(f) or Section 7 of the Freedom of Information Act and the names and titles of those responsible for the decision to deny the request. The denial shall also include information pertaining to the right to appeal the decision to the Director of the Illinois Deaf and Hard of Hearing Commission.

3) The request may be approved in part and denied in part, in which case subsection (b)(1) and (2) will be followed, as appropriate.

b) Any request that creates an undue burden on Illinois Deaf and Hard of Hearing Commission will be denied. However, prior to denial, an attempt will be made to confer with the requesting individual to reduce the amount of information to a manageable level in accordance with Section 3(f) of the Freedom of Information Act.

c) Failure of the Commission to respond to a written request within 7 working days may be considered by the requestor as a denial of the request and the requestor can appeal to the Director of the Illinois Deaf and Hard of Hearing Commission.
DEAF AND HARD OF HEARING COMMISSION

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Section 3300.230 Appeal of Denied Request

a) A requestor may appeal the denial of public records to the Director. The appeal must be in writing and addressed to:

Director
Illinois Deaf and Hard of Hearing Commission
1630 South Sixth Street
Springfield, IL 62703

b) The appeal must include a copy of the original request, a copy of the denial letter and a written statement setting forth the reasons why the appeal should be granted.

Section 3300.240 Director’s Response to Appeal

The Director shall respond, in writing, within 7 working days after receipt of an appeal.

The Director may either:

a) Provide access to the requested public records; or

b) Uphold the denial and inform the requesting individual of the right to judicial review under the Freedom of Information Act.

Section 3300.250 Fee for Copies of Public Records

a) Charges for copies of public records shall be 20 cents per page except no fee will be charged for:

1) A request for fewer than 10 pages;

2) A request from a State agency, State officer or member of the legislature; or

3) A request for public records that is in the public interest.

b) Copies of public records shall be provided to the requestor only upon payment of any charges that are due.
DEAF AND HARD OF HEARING COMMISSION

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Section 3300.260 Inspection of Public Records at Commission Office

a) Public records will be made available for requestor’s inspection at the Commission’s office in Springfield during normal working hours.

b) A space will be provided in which the requestor may inspect public records and an employee of the Commission may be present throughout the inspection.

c) A requestor shall not be permitted to take a briefcase, folder or other similar materials or pens into the room in which the inspection will take place.

d) A requestor will be permitted to take pencil and paper into the room while inspecting public records.

e) Documents that the requestor wishes to have copied shall be segregated during the course of the inspection. Commission employees will do all copying.

SUBPART C: ORGANIZATION

Section 3300.300 Commission Powers and Duties

a) The Commission is the governing body and is responsible for the overall direction of the Commission;

b) The Commission shall establish and maintain goals and priorities utilizing long and short range goals;

c) The Commission shall develop public policy;

d) The Commission shall identify and address the needs and concerns of deaf and hard of hearing people;

e) The Commission shall promote the new development and/or improvement of services, programs and activities for deaf and hard of hearing people; and

f) The Commissioners shall assess the performance of the Commission through continuous self-evaluation.

Section 3300.310 Commission Membership, Terms of Office and Vacancies
DEAF AND HARD OF HEARING COMMISSION

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a) The Illinois Deaf and Hard of Hearing Commission shall consist of 11 members, at least 6 of whom shall be deaf or hard of hearing, appointed by the Governor.

b) The full terms of the members shall be for 3 years, with each member serving no more than 2 consecutive full terms. A member shall serve for a term ending on November 14.

c) Vacancies are to be filled in the same manner as membership appointments. Vacancy appointments occurring before the expiration of a term are for the remainder of the unexpired term.

Section 3300.320 Officers, Responsibilities, Removal and Vacancies

a) The officers of the Commission shall consist of a chair and a vice-chair, elected by a simple majority vote of the total membership of the Commission. At least one of the officers shall be deaf or hard of hearing.

b) The chair and vice-chair shall serve for a term of one year or until the Commission elects new officers.

c) The chair shall preside at all meetings of the Commission, shall be an ex-officio member of all Commission committees, and shall be the supervisor of the Director.

1) The chair shall also:

   A) Set time and place of regular meetings of the Commission;

   B) Call special meetings of the Commission;

   C) Develop the agenda, with the Director’s assistance, for each Commission meeting;

   D) Address and respond to urgent needs at the discretion of the Commission;

   E) Orient new members;

   F) Encourage full participation of the members in Commission
DEAF AND HARD OF HEARING COMMISSION

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activities;

G) Promote effective communication between the Commission and the deaf and hard of hearing community;

H) Oversee the work of the Director; and

I) Function as the primary contact between the Director and the Commission.

2) The vice-chair shall aid the chair in the performance of his/her duties and shall:

A) Preside at meetings of the Commission when the chair is absent; and

B) Perform other duties assigned by the Commission or delegated by the chair.

d) The officers may be removed from office by a 2/3 vote of the Commission members.

e) The officers may resign from office provided that the majority of the Commission members accept the resignation.

f) The Commission members shall elect the successive officers by majority vote upon removal or resignation of either officer.

Section 3300.330 Members’ Responsibilities and Duties

a) Members shall be committed to the mission and the goals of the Commission;

b) Members shall be knowledgeable about the operation, services, and programs;

c) Members shall be objective in evaluating the programs, problems, and policies of the Commission;

d) Members shall resist all pressures from groups and individuals, either from within or outside the Commission, who attempt to compromise the values, ideals, goals,
policies, or prerogatives of the Commission;

e) Members shall budget time and plan ahead in order to attend the meetings of the Commission and of those committees to which a member is appointed;

f) Members shall accept and discharge specific responsibilities, either on committees or in the general work of the Commission;

g) Members shall refrain from using one’s position as a member of the Commission to obtain special privileges or favor;

h) Members shall assist the Commission in identifying the needs of deaf and hard of hearing persons;

i) Members shall comply with and carry out statutes, regulations and policies of the State and Commission;

j) Members shall resist issuing directives or indiscreet, improper, or unofficial communication with employees of the Commission or becoming unnecessarily involved in the day-to-day operation of the Commission;

k) Members shall respect the work and authority of the Commission; maintain the confidentiality of the deliberations of the Commission; and support the majority action of the Commission.

Section 3300.340 Meetings, Notice and Place of Meetings

a) The Commission meetings are subject to the provisions of the Open Meetings Act [5 ILCS 120].

b) The Commission shall convene no fewer than 4 times a year and these 4 meetings are open to the public.

c) Special meetings may be called by the chair when deemed necessary or at the request of a majority of the Commission members.

d) Before a closed meeting can occur, the Commission must announce publicly the specific exemptions under the provisions of the Open Meetings Act for closing the meeting. Closed meetings are not open to the public.
The dates, times, and place of the Commission’s regular meetings scheduled for the fiscal year will be posted at the beginning of each fiscal year.

Notice of any meetings and agenda shall be posted, 48 hours prior to the meeting, at the Commission’s office and the location where the meeting is held.

Meeting notice and agenda, if requested, shall be sent to interested individuals, organizations, and agencies 48 hours prior to the date of the meeting.

The media, if they have filed a request, shall be notified 5 working days prior to the date of the meeting.

Notice of meeting cancellations will be published in a newspaper of general circulation in the area of the scheduled meeting at least 10 days prior to the cancellation.

The Commission shall hold their meetings at a location most convenient to the public.

Section 3300.350 Quorum and Voting

A quorum shall be a simple majority of total membership, discounting vacant seats not currently filled by the Governor. A quorum shall be required to conduct Commission business.

Each member, including the chair, shall be entitled to one vote.

1) No member shall vote by proxy.

2) No vote can be taken via telephone, fax, and/or e-mail.

Section 3300.360 Public Participation

All regular and special meetings of the Commission are open to the public and the media. The public and the media are requested to introduce themselves and state whom they are representing, if anyone.

An individual, group of individuals, or organizations requesting to address the
NOTICE OF ADOPTED RULES

Commission should place their request in writing to the Director 2 working days prior to the meeting.

c) The chair shall recognize the individuals, groups, or organizations at the appropriate time on the agenda.

d) A limit of ten (10) minutes will be allotted for a presentation to the Commission. The Commission may allot more time, ask questions, or begin discussion of the issue presented.

Section 3300.370 Task Force/Committee Establishment, Reimbursement, Liaison and Appointment

a) The Commission may create task forces and/or committees to advise, recommend, and investigate issues of significance to individuals with hearing loss in Illinois at the request of the Commission and will report on their activities directly to the Commission.

b) The Commission will reimburse task force and/or committee members for travel, per diem, and lodging according to the prevailing rates established by the State of Illinois and subject to budgetary availability.

c) The Director, or his designee, shall attend all task force and committee meetings. The Director shall be the liaison between the Commission and task forces and committees and shall report all task forces’ and committees’ progress to the Commission during its regular meetings.

d) Commission members may serve as ex-officio members of any task force or committee.

e) The Director and/or Commission members may recommend individuals for Commission appointments to serve on the task forces and committees. Appointments shall be confirmed by a majority vote of the Commission members.

Section 3300.380 Director and Staff

a) The Director shall be the executive officer of the Commission; shall be hired, supervised, and evaluated by the Commission; and shall serve at the pleasure of the Commission. A 2/3 majority vote of the total membership, discounting vacant...
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF ADOPTED RULES

seats not currently filled by the Governor, at a regularly scheduled or emergency meeting of the Commission is required to remove the Director from office.

1) The Director shall be responsible for the development, execution and evaluation of Commission activities and programs; supervise of personnel; propose the Commission’s budget; allocate and use of funds; monitoring and/or initiate legislation, regulations, policies and programs; and reports as needed and as advised by the Commission.

2) The Director shall be afforded the same rights and privileges as outlined in the Personnel Code [20 ILCS 415], except for hiring.

b) The staff shall be hired, supervised, and evaluated by the Director and be provided salary and benefits in accordance with the Personnel Code [20 ILCS 415] and Illinois Deaf and Hard of Hearing Commission’s policy and procedure manual.

Section 3300.390 Parliamentary Procedures

The meetings of the Commission shall be governed according to the most recent edition of Robert’s Rules of Order.

Appendix A Organizational Chart
1) **Heading of the Part**: Aquaculture, Transportation, Stocking, Importation and/or Possession of Aquatic Life

2) **Code Citation**: 17 Ill. Adm. Code 870

3) **Section Numbers**
   
<table>
<thead>
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<th>Adopted Action</th>
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<td>870.10</td>
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5) **Effective Date of Amendments**: April 21, 2003

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 amendments, 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**: November 15, 2002, 26 Ill. Reg. 16802

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version**:

    Section 870.30(b)(2)(D) – deleted text; added Section 870.30(c) "The Department may impose additional conditions in approving a permit, specific to the facility, that are deemed necessary or appropriate for the protection of the State's aquatic resources."

    Section 870.40(g), added "e.g., receipt number, carrier type, etc.)"
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

The remainder of the changes were non-substantial and were made to correct spelling, grammar and punctuation errors.

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

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

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

15) Summary and Purpose of Rulemaking: Amendments to this Part were made to add requirements for annual reports to be submitted by aquaculture permit holders, update new contract information and references for inspection procedures for fish health and to amend the Section on Exemptions.

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

Karen Jacobs
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 870.10  Aquatic Life Approved Species

a) For the purposes of Section 20-905.16 of the Fish and Aquatic Life Code [515 ILCS 5/20-90] of 1971 (Ill. Rev. Stat. 1987, ch. 56, par. 5.16), the Aquatic Life Approved Species List is established. The following aquatic life categories will be considered approved for aquaculture, transportation, stocking, importation and/or possession in the State of Illinois.

1) Amphibians
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

2) Reptiles
3) Crustaceans
4) Mollusks
5) Gastropods
6) Fish
7) Plants

b) Any species not on the Aquatic Life Approved Species List as described in Section 870.10(a) may not be imported or possessed alive without a letter of authorization to import/possess such species, except saltwater species commonly used as seafood which will not survive in freshwater, such as lobsters, clams, mussels, and oysters.

c) Any species listed as endangered or threatened pursuant to Section 8 of the Illinois Endangered Species Protection Act [520 ILCS 10/8] (Ill. Rev. Stat. 1987, ch. 8, par. 337) will be governed by Section 3 of the Illinois Endangered Species Protection Act [520 ILCS 10/3] (Ill. Rev. Stat. 1987, ch. 8, par. 333). As aquatic species are listed endangered or threatened, permit holders will be notified.

d) Copies of the Aquatic Life Approved Species List may be obtained free of charge by writing to:

Aquaculture Coordinator
Jake Wolf Memorial Fish Hatchery
25410 Fish Hatchery Road Box 560
Topeka IL 61567 Manito, IL 61546

e) An Aquaculture Advisory Committee shall be formed to review requests to import/possess aquatic species not included on the Aquatic Life Approved Species List, and to recommend under what conditions species may be imported/possessed to the Chief of the Division of Fisheries. The Committee shall be composed of representatives of:

1) The Chiefs of the following divisions of the Department of Natural
DEPARTMENT OF NATURAL RESOURCES

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Resources:

A) Fisheries (Chair);
B) Wildlife;
C) National Heritage;
D) Law Enforcement;

2) Should they agree to participate:

A) The President of the Illinois Aquaculture Industry Association;
B) The Chief of the Natural History Survey;
C) The Aquaculture Coordinator, Department of Agriculture;
D) The Director, Southern Illinois University Fisheries Research Laboratory;
E) The Chief, Division of Food, Drugs and Dairies, Department of Public Health.

f) The Chief of the Division of Fisheries shall consider the recommendations of the Aquaculture Advisory Committee prior to rendering final decisions regarding requests to import/possess species not included on the Aquatic Life Approved Species List. The Aquaculture Advisory Committee's recommendations and the decisions of the Chief of the Division of Fisheries shall be based upon the potential detriment to the natural fishery resource.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)

Section 870.20 Aquaculture Permit Application Requirements

a) Persons wishing to obtain an aquaculture permit must obtain an aquaculture permit application from: Department of Natural Resources, Aquaculture Permit, 524 S. Second Street, Room 210, P.O. Box 19458, Springfield, IL 62794-9458, and submit the completed application, along with the $50.00
fee, to the same address. Upon expiration of their first annual permit, persons wishing to obtain a renewal of their permit should submit renewal forms provided by the Department to the address above. Illinois Department of Natural Resources, Commercial Permit Section, 524 South Second Street, Room 210, P.O. Box 19225, Springfield, IL 62794-9225.

b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected and fees returned. Each applicant must submit a check or money order for each application.

c) Applicants wishing to import/possess aquatic life which appears on the Aquatic Life Approved Species List must submit their aquaculture permit application at least 4 weeks prior to such importation/possession.

d) Applicants wishing to import/possess aquatic life not on the Aquatic Life Approved Species List must submit their aquaculture permit application at least 8 weeks prior to the desired date of such importation/possession.

e) Importation/possession of aquatic life may not commence until the operator is in possession of an issued aquaculture permit.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)

Section 870.30 Aquaculture Facility Requirements

a) Permit applicants wishing to import/possess aquatic life that appears on the Aquatic Life Approved Species List may apply for a permit prior to completion of their aquaculture facilities.

b) Permit applicants wishing to import/possess aquatic life not on the Aquatic Life Approved Species List must have an aquaculture facilities plan completed and approved by the Department prior to issuance of the aquaculture permit. Such an issued permit is conditional, pending final inspection. Approval shall be based upon the following:

1) Facilities must be self-contained and not capable of overflowing into other waters of the State and cannot be located on or in a 100 year flood plain, as defined by the Division of Water Resources of the Illinois Department of Natural Resources Transportation (17 Ill. Adm. Code 3706).
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

unless such location receives approval by the Department of Natural Resources, based upon the facility's susceptibility to flooding.

2) Self-contained facilities needing drainage or discharges of water shall dispose of water:

A) into a municipal water treatment facility; or

B) into an on-site waste treatment facility incorporating sand filtration and chlorination; or

C) as approved by the Department of Natural Resources, pursuant to Section 5-5 2.1 of the Fish and Aquatic Life Code [515 ILCS 5/5-2.1] of 1971 (Ill. Rev. Stat. 1987, ch. 56, par. 2.1).

c) The Department may impose additional conditions in approving a permit, specific to the facility, that are deemed necessary or appropriate for the protection of the State's aquatic resources.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)

Section 870.40 Aquaculture Operational Rules

a) Permit holders must request a letter of authorization from the Aquaculture Coordinator for each additional species not on the Aquatic Life Approved Species List they wish to import or possess and that which is not listed on their original permit application (see Section 870.10(e)).

b) A letter of authorization from the Department shall be required for each aquatic life species that which does not appear on the Aquatic Life Approved Species List. TheSuch letter shall be attached to the permit and shall be available for inspection upon request (see Section 870.10(e)).

c) In the event that an aquaculturist possessing aquatic life not on the Aquatic Life Approved Species List goes out of business or possesses the such aquatic life contrary to the Fish and Aquatic Life Code of 1971, the Department shall determine disposition of such aquatic life as deemed necessary, based upon the potential detriment to the aquatic resource.
d) Permit holders or their heirs or assigns possessing aquatic life not on the Aquatic Life Approved Species List, who cease operation for whatever reason, are required to notify the Department in writing within 30 days after their cessation of business.

e) When the permit holder who possesses aquatic life not on the Aquatic Life Approved Species List ceases doing business voluntarily or involuntarily, his or her permit expires at the cessation of business. Heirs, assigns or new owners must apply for an aquaculture permit.

f) Records shall be maintained as required in Sections 20-90 Section 5.16 and 20-125 of the Fish and Aquatic Life Code of 1971 (Ill. Rev. Stat. 1987, ch. 56, par. 5.16 [515 ILCS 5/20-90 and 20-125]).

g) All aquaculture permit holders shall submit to the Department, on forms provided by the Department, by January 31 of each year, an annual report providing information on the previous calendar year's activity for aquatic life bought, sold or shipped. The information required on this annual report shall include:

1) name, address and license number of buyer;

2) name, address and license number of seller;

3) transaction date;

4) species;

5) number of pounds;

6) origin;

7) price paid per pound (optional); and

8) any other information (e.g., receipt number, carrier type, etc.) as required by the Department on the form.

h) Failure of the aquaculture permit holder to submit the required reports in the manner and time frame specified shall be grounds for refusal by the Department to issue to those individuals a license for the following year until all required reports are received and approved by the Department.
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(Source: Amended at 27 Ill. Reg. 7741, effective April 22, 2003)

Section 870.50 Unlawful Acts

a) It is unlawful to release any aquatic life into the waters of this State without first securing permission of the Department to do so, except that the owners of a body of water or their agents may release aquatic life on the Aquatic Life Approved Species List into waters that are wholly on their property. All aquatic life may be released into waters from which they were taken (Section 10-1003.20 of the Fish and Aquatic Life Code of 1971). Permission will be based upon the potential detriment to the aquatic resource.

b) It is unlawful for any persons to transport, ship, or convey within the State, any live grass carp or white amur (Ctenopharyngodon idella), bighead carp (Hypophthalmichthys nobilis), silver carp (Hypophthalmichthys molitrix), or hybrid grass carp, unless that person has in his possession a "Restricted Species Transportation Permit" issued by the Illinois Department of Natural Resources.

c) It is unlawful to transport, ship, or convey live trout, salmon, or char into the State unless a salmonid import permit has been issued to the source hatchery, as required by Section 10-1053.21 of the Fish and Aquatic Life Code [515 ILCS 10-105] of 1971 (Ill. Rev. Stat. 1987, ch. 56, par. 3.21). A copy of the salmonid import permit must accompany each shipment. A salmonid import permit will be issued only if the source hatchery has been inspected within the last 12 months and found free of, but not limited to, the following disease agents: VHS – Viral Hemorrhagic Septicemia Virus; IHN – Infectious Hematopoetic Necrosis Virus; CS – Ceratomyxosis (Ceratomyxa shasta); PKD – Proliferative Kidney Disease agent; and/or any other disease agents that are not known to be present in the Great Lakes Basin.

1) A salmonid import permit may be issued for a period of up to 6 months following the inspection of the source hatchery. The said salmonid import permit will be reissued if the owner/operator of the source hatchery certifies that there has been no change in the disease status of the source hatchery in the 6 month period following the annual inspection. A bill of sale, listing quantity, species, and hatchery of origin shall be provided to and retained by the final recipient of the fish, until the fish are disposed of.
The Department recognizes persons inspecting hatcheries using the methods of diagnosis found in "Suggested Procedures for the Detection and Identification of Certain Finfish and Shellfish Pathogens" 4th ed., Version 1 (1994), "Procedures for the Detection and Identification of Certain Fish Pathogens" (1985), published by the Fish Health Section of the American Fisheries Society or the "Manual of Compliance to the Fish Health Protection Regulations of the Department of Fisheries and Oceans, Canada (1988), (no further amendments or editions are included), as competent in the diagnosis of fish diseases, unless a clearcut conflict of interest exists—(such as the inspector being related to the hatchery owner by blood, adoption, marriage or economic interest).

d) No live aquatic life not on the Aquatic Life Approved Species List produced at the facilities operated or owned by an aquaculture permit holder may be removed from the site unless they are being transferred to another permit holder who has permission to possess them, or to a fish market as food, or to an aquarium shop.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)

Section 870.60  Restricted Species Transportation Permit Procedures

a) A Restricted Species Transportation Permit is required for live grass carp, bighead carp, silver carp, or hybrid grass carp. Restricted Species Transportation Permits are available from the Division of Fisheries, One Natural Resources Way 524 S. Second Street, Lincoln Tower Plaza, Springfield, IL 62702-1787. Applications must be received by the Division of Fisheries at least two weeks prior to the proposed shipment date. A "Restricted Species Transportation Permit" shall be required for each shipment, except that extended permits covering regular periodic deliveries may be granted by the Department, pursuant to Section 10-1053.21 of the Fish and Aquatic Life Code of 1971. Triploid grass carp under 4 inches in length cannot be shipped, transported or stocked and may be possessed only by authorized aquaculture permit holders.

b) Lake or pond owners are exempt from the "Restricted Species Transportation Permit" requirements while transporting grass carp purchased and obtained in Illinois for stocking in their waters, if they have a signed receipt from an aquaculture permit holder or licensed non-resident fish dealer stating that the grass carp have a triploid number of chromosomes, and the lake or pond owner's name and address is listed on the aquaculturist's "Restricted Species
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Transportation Permit". A "Restricted Transportation Permit" is valid only:

1) on the dates listed on the permit; and

2) for names and addresses listed for delivery on such application/permit.

c) For the purposes of this Section, a shipment is defined as one load of fish; for example, 3 truckloads of fish being transported in convoy would be 3 shipments.

d) Except for persons exempt under Section 870.60(b), any person hauling any live triploid grass carp must subject the shipment to examination by the Department of Natural Resources. For a batch of fish containing more than 56 individuals, 56 fish will be tested; for a batch containing fewer than 56 individuals, 100% will be tested.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)

Section 870.80 Exceptions

Except in the case of injurious species, as described in 17 Ill. Adm. Code 805, (e.g., Rusty Crayfish and Zebra Mussel) as determined by the Department of Natural Resources based upon the potential threat to indigenous aquatic life or the habitat, this Part does not apply to the aquarium industry (those businesses regulated by the Department of Agriculture under the Animal Welfare Act [225 ILCS 605], Ill. Rev. Stat. 1989, ch. 8, par. 301 et seq.) or State agencies or universities, so long as they are operating in a manner that will prevent escapement into the waters standing on or flowing over the soil of the State of Illinois.

(Source: Amended at 27 Ill. Reg. 7741, effective April 21, 2003)
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1) **Heading of the Part**: The Forest Products Transportation Act

2) **Code Citation**: 17 Ill. Adm. Code 1530

3) **Section Numbers**
   
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4) **Statutory Authority**: Implementing and authorized by the Forest Products Transportation Act [225 ILCS 740].

5) **Effective Date of Amendments**: April 21, 2003

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 amendments, 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**: January 24, 2003, 27 Ill. Reg. 1089

10) **Has JCAR issued a Statement of Objections to these rules?**: No

11) **Differences between proposal and final version**: Changes were made to correct grammatical and punctuation errors and are all non-substantial.

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

13) **Will this rulemaking replace an emergency rule currently in effect?**: No

14) **Are there any amendments pending on this Part?**: No
15) **Summary and Purpose of Rulemaking:** This Part was amended to redefine "proof of ownership" and require use of Department forms for proof of ownership; update the Department's address; repeal the Section on Registration and revise the Purchase Agreement for Purpose of Transportation form.

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

Karen Jacobs  
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:
The following terms are defined as is set forth in Sections 2 through 2.07 inclusive of the Forest Products Transportation Act (the Act), as amended: [225 ILCS 740/2-2.07] (Ill. Rev. Stat. 1989, ch. 96½, pars. 6902-6907):

a) Department means the Department of Natural Resources.

b) "Tree" or "trees" means any tree, standing or felled, living or dead, and includes
both those trees included within the definition of "timber" in Section 2 of the Timber Buyers Licensing Act [225 ILCS 735] (Ill. Rev. Stat. 1989, ch. 111, par. 701 et seq.) and Christmas trees. The term does not apply to trees or parts of trees that have been cut into firewood.

c) "Forest product" means logs which can be used for sawing or processing into lumber for building or structural purposes, for the manufacture of furniture or for the manufacture of any article.

d) "Person" means any person, partnership, firm, association, business trust or corporation.

e) "Timber grower" means the owner, tenant or operator of land in this State who has an interest in, or is entitled to receive any part of the proceeds from the sale of timber grown in this State and includes persons exercising authority to sell timber.

f) "Proof of ownership" means a printed document provided by the Department that serves as a written bill of lading. The information required in this document is established by Section 1530.60 includes a written bill of sale executed by the owner-seller, a written bill of lading executed by the owner-seller or a written or printed indication that the person in possession is the agent or employee of the owner or has possession with the knowledge and consent of the owner.

g) "Owner", when referring to trees or forest products grown or growing on public lands under the jurisdiction of the federal government, the State or any unit of local government or school district within the State, means the person empowered by law, or by action of the corporate authorities of the governmental entity pursuant to law, to sell or dispose of trees and forest products from the governmental lands.

(Source: Amended at 27 Ill. Reg. 7752, effective April 21, 2003)

Section 1530.30 Correspondence and Inquiries Regarding this Act

All correspondence and/or inquiries regarding this Act shall be directed to:

State of Illinois
Department of Natural Resources
DEPARTMENT OF NATURAL RESOURCES

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Office of Law Enforcement Division of Forest Resources
One Natural Resources Way 600 N. Grand Ave. West
P.O. Box 19225
Springfield IL 62702-1271
Attention: Forest Products

(Source: Amended at 27 Ill. Reg. 7752, effective April 21, 2003)

Section 1530.50 Proof of Ownership

a) Any person hauling, conveying or transporting 2 or more "trees" or "forest products" or either of them (as defined herein), on any road or highway in this State shall be required to show proof of ownership or that such hauling, conveying or transporting is with the consent of the owner or duly authorized agent of the owner or party in interest with respect to such "trees" or "forest products".

b) Complete "proof of ownership" shall be available for inspection at all times and shall be kept with the vehicle or other conveyance load.

c) A timber grower registration may be used in lieu of "proof of ownership" by timber growers transporting their own products.

d) Interstate haulers conveying forest products or trees whose origin was a state other than Illinois may show documents required by the Federal Motor Carrier Safety Administration Interstate Commerce Commission as "proof of ownership".

(Source: Amended at 27 Ill. Reg. 7752, effective April 21, 2003)

Section 1530.60 Requirements and Format for "Proof of Ownership"

a) The "proof of ownership" required under the Act and as set forth in this Part shall be completed on forms provided by the Department complete and contain the following minimum information:

   a) Point of origin. Shall be a legal description of the location of the timber, woodland, log yard, etc., and shall include the county, township, range and section of origin, when located outside corporate limits. Within corporate limits a street address or other usable location should be given.
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b) Point of destination.

c) Seller's name, address, phone number and signature. "Seller's name" shall be the name of the timber grower, timber buyer or sawmill from which the timber was purchased. When timber is removed from a sawmill or concentration yard and transported to another location, the said businesses/areas shall be identified as the "seller".

d) Transporter's name, address and phone number if different from buyers.

e) Buyer's (that person who now owns the transported forest products, tree or trees, as defined in the Act) name, address, timber buyer's license number (when applicable), phone number and signature.

f) Date over-the-road hauling will occur. This date may be a period of time that which is inclusive of the timber purchase contract dates.

g) Statement that the "forest products, tree or trees" have been purchased from the designated seller or are being transported with knowledge and consent of the buyer or that the person in possession is an agent or employee of the buyer.

h) Date of purchase. For all purposes except the payment of harvest fees, the date of purchase shall be the date the purchase agreement was made. Harvest fees shall be due within one month after the quarter in which payments are made.

i) Daily hauling log. For each load of "forest products or trees" hauled, the transporter shall record the date the load was hauled, the number of logs, and the destination. Each record entry shall be signed by the driver of the conveyance hauling the said "forest products or trees".

b) While a specific form is not required for providing the above required information, a suggested printed format (form U-102-73) may be requested from the Department, and may be imprinted on the letterhead used in the general conduct of business of any "person" in complying with the Act and this Part.

(Source: Amended at 27 Ill. Reg. 7752, effective April 21, 2003)

Section 1530.70 Registration (Repealed)
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Registration as a "Timber Grower" shall be on a form prescribed by the Department (Form U-103-73) which may be obtained on request from the Department. Registration as a "Timber Grower" shall conform to the following requirements:

a) Areas not conjunctive both physically and by ownership shall be registered individually.

b) The registration fee shall be $5.00.

c) Application for registration, payment of fees and all supporting documentation shall be submitted together.

d) Use of signs, decals, logos or labels is optional to the timber grower. Such signs, decals, logos or labels used to display registration on vehicles or labels for attachment to "forest products, tree or trees" shall conform to the following requirements, and be subject to the review of the Department. Their design shall be a solid green outline map of Illinois with the lettering limited to, Registered Timber Grower and assigned number, printed in block letters. Attachable sales tags, cards, etc. need only display the words, Registered Timber Grower and assigned number. All designs meeting these requirements shall be approved by the Department. The cost of such shall be at the expense of the registrant. Examples of vehicle and attachable labels shall be made a part of the application.

e) The Department shall be notified in writing of any change in the registration information of a continuing operation or of the cessation of business within 10 days of any change or cessation. A fee of $3.00 will be charged for any change in registration information filed with the Department.

f) Checks or money orders shall be made payable to: Department of Natural Resources, Division of Forestry.

(Source: Repealed at 27 Ill. Reg. 7752, effective April 21, 2003)

Section 1530.EXHIBIT A  Purchase Agreement for Purpose of Transportation

Date _____________, 2019 ______

The undersigned seller: (Check one – if licensed buyer, must give license number)

Timber Grower □  Sawmill □  Concentration Yard □
NOTICE OF ADOPTED ADMENDMENTS

Timber Buyer □ License No. ___________ Phone: AC (____) ____ - ________

(Name) (Address)

stipulates that the undersigned buyer, ________________________________

(Name) ________________________________ License Number ________________________________

(Address) Phone: AC (____) ____ - ________ has purchased from the seller "forest products, tree or trees"

List Species: ___________________________________________________________________

Removal from the seller's control shall be on, ___________ or between ___________ and ___________.

(Date) (Date)

If transportation is to be by conveyance other than the buyer's own means, the contracted transporter's name, address, phone number and status (employee, contract hauler, etc.) should be given here:

______________________________________________________________________________

Point of origin (location of timber, woodland, log yard, etc.) by county, township, range and section number is:

______________________________________________________________________________

Point of destination: __________________________________________________________________

We hereby certify that the aforementioned forest products, tree or trees have been purchased from the designated seller or are being transported with the knowledge and consent of the buyer, and that the person in possession is an agent or employee of the buyer.

Date of purchase: __________________________
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______________________________  ______________________________
Signature of Seller              Signature of Buyer

Provide Daily Log of Loads Hauled on Reverse

(Source: Amended at 27 Ill. Reg. 7752, effective April 21, 2003)
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1) Heading of the Part: Timber Buyer Licensing and Harvest Fees

2) Code Citation: 17 Ill. Adm. Code 1535

3) Section Numbers: Adopted Action:
   1535.1     Amendment
   1535.5     Amendment
   1535.10    Amendment
   1535.15    New Section
   1535.16    New Section
   1535.20    Amendment
   1535.25    New Section
   1535.30    Amendment
   1535.40    Repealed
   1535.50    Amendment
   1535.60    Amendment

4) Statutory Authority: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].

5) Effective Date of Amendments: April 21, 2003

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 amendments, 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: January 24, 2003, 27 Ill. Reg. 1098

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Changes were made to correct grammatical, spelling and punctuation errors and are all non-substantial.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
13) Will this rulemaking replace an emergency rule currently in effect? No

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

15) Summary and Purpose of Rulemaking: Timber buyers have been required for many years to provide proof of bonding, and to keep records of purchases and harvest fee payments. Nothing within this proposed amendment changes those requirements. Public Act 92-0805 (effective August 21, 2002) necessitated some administrative rule language regarding clarification of bonding procedures and determination of harvest fees, as well as adding new provisions regarding determination of aggregate value of timber. These amendments should have minimal impact on the daily operations of timber buyers.

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

Karen Jacobs
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:
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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER d: FORESTRY

PART 1535
TIMBER BUYER LICENSING AND HARVEST FEES

Section 1535.1  Timber Buyer's License
1535.5  Records
1535.10  Payment of 4% Fee to Department
1535.15  Bonding Definitions
1535.16  Bonding Requirements
1535.20  Value Determination
1535.25  Aggregate Value Determinations of Timber
1535.30  Volume Estimates
1535.40  Arbitration (Repealed)
1535.50  Information
1535.60  Penalty

AUTHORITY:  Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].


Section 1535.1  Timber Buyer's License

a)  All timber buyers, as defined by the Illinois Timber Buyers Licensing Act [225 ILCS 735/2] (Ill. Rev. Stat. 1991, ch. 111, par. 702), shall obtain a license from the Department before engaging in the business of timber buying. Application for such license shall be filed on forms provided by the Department and shall contain the following minimum information:

1)  Name of applicant;
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2) Principal officers if applicant is a corporation or the partners if applicant is a partnership;

3) Location of the principal office or place of business of the applicant;

4) The counties in which the applicant proposes to engage in the business of timber buyer;

5) The names and addresses of any persons authorized to purchase timber in the name of the licensed buyer;

6) Type and amount of bond; and

7) Any other information as required by the Department.

b) Only persons listed with the Department as authorized buyers may represent the licensee. Authorized buyers shall designate in all contractual arrangements that the licensee is the timber buyer. Failure to comply with this provision shall constitute "buying timber without a timber buyer's license". Authorized buyers may only be listed on one license. To be eligible to hold a timber buyer's license, the applicant must be at least 18 years of age.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.5 Records

The books, accounts, records and papers used in the conduct of a timber buyer's business, must contain, at a minimum, the following information regarding each timber purchase:

a) date of purchase. For all purposes, except the payment of harvest fees, the date of purchase shall be the date the purchase agreement was made. Harvest fees shall be due within one month after the quarter in which payments are made;

b) date of payments;

c) amount of payments;

d) amount of harvest fee;
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e) date harvest fee sent to Illinois Department of Natural Resources; and

f) name, address and telephone number of seller.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.10 Payment of 4% Fee to Department

a) All 4% harvest fees collected from timber owners or values determined in barter transactions or in timber harvests by owners from their lands shall be sent to the Department of Natural Resources (Department or DNR) accompanied by a completed Form FPF-1 (Harvest Fee − Report of Purchase) as supplied by the Illinois Department of Natural Resources.

b) Any timber buyer purchasing timber from the federal government shall not be required to deduct the 4% harvest fee from the purchase price, report such purchases or make payment to the Department of an amount that equals 4% of the purchase price.

c) Payments are to be made payable to the Department of Natural Resources and must be in the exact amount shown due on the accompanying Form FPF-1. When any payment is returned to the Department by the Office of the State Treasurer as non-negotiable, the person issuing the check or order will be given written demand delivered by certified mail for payment equal to the original amount by certified instrument, such as a cashier's check or money order, to the person's last known address. Failure to pay the original amount within 30 days after such delivery shall result in the bond being forfeited to the Department and make the person liable to the Department for, in addition to the amount owing upon such check or order, damages of treble the amount so owing, but in no case less than $100 nor more than $500. The Department will assess and collect this penalty pursuant to the requirements of Section 17-1a of the Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, par. 17-1a).

d) Payments to the Department may be made on an individual sales or quarterly basis. A quarterly and individual sales report cannot be filed for the same quarter. Quarters are established by the calendar year and shall be for the periods of: January-March, April-June, July-September, October-December.

e) All timber transactions for which monies are due to the Department of Natural Resources for which monies are due to the Department of Natural Resources; and
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Resources shall be submitted by the last day of the month following the end of each quarter.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.15 Bonding Definitions

a) Bond means surety bond or other security in lieu thereof described in 225 ILCS 735/4.

b) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the timber buyer as principal and that is supported by the guarantee of a corporation authorized to transact business as a surety in Illinois.

c) Other security means an indemnity agreement in a sum certain executed by the timber buyer as principal that is supported by the deposit with the Department of one or more of the following:

1) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;

2) Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.16 Bonding Requirements

a) Surety Bond Requirements

1) Bonds shall be signed by the timber buyer as principal, and by a good and sufficient corporate surety, authorized to transact business as a surety in Illinois.

2) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 60 days notice to the Department. The notice shall be served upon the Department in writing by registered or
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certified mail to the Department's Springfield offices.

3) Prior to the expiration of the 60 days notice of cancellation, the timber buyer shall deliver to the Department a replacement bond. If the bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 60 day period.

b) Other Securities Requirements

1) Letters of credit shall be subject to the following conditions:

A) The letter may only be issued by a bank organized or authorized to do business in the United States (issuing bank). If the issuing bank does not have an office for collection in Illinois, there shall be either a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois, or an Illinois registered agent designated by the issuing bank.

B) Letters of credit shall be irrevocable during their terms. A letter of credit shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.

C) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

2) Certificates of deposit shall be subject to the following conditions:

A) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to
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waive all rights of setoff or liens against those certificates.

B) Any interest accruing on a certificate of deposit shall be for the benefit of the timber buyer.

C) The certificate of deposit, if a negotiable instrument, shall be placed in the Department's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the timber buyer, shall be placed in the Department's possession.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.20 Value Determination

a) The value of timber purchased shall be the gross amount received by the owner and paid by the timber buyer for any interests involved in the timber purchase.

b) When timber is purchased in whole or in part or in total by barter, the fair market value of the bartered item or service used as payment for timber or logs to the timber owner shall be used in determining the harvest fee due the Department of Natural Resources. Any payment made from any source shall require a 4% harvest fee payment to the Department.

c) If timber is cut from an owner's land without establishing the amount to be paid or the bartered value of the timber or logs, such timber or logs shall have the value set at the point in the marketing system where ownership changes at the mill or primary processing plant.

1) When harvested logs (used for lumber, cooperage, piling or veneer) are piled and sold but not delivered to the primary plant site by the timber owner, a deduction of $100 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer. When logs or pulpwood are sold and delivered to the primary plant site by the timber owner, the following may be used in establishing harvest fee deductions. In no case shall the deduction exceed $55 per thousand bd. ft.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

A) Logs for lumber, cooperage, piling, or veneer, the amount of fifty-five dollars ($55) per thousand bd. ft. or fifty percent (50%) of the purchase price whichever is less, shall be deducted from the price agreed to by the timber buyer and the timber seller to be paid to the timber owner prior to determination of the 4% harvest fee. This deduction is not available to persons engaged in the business of timber buying or acting as a timber buyer.

B) Pulpwood purchased by weight shall be given a value of one dollar and fifty cents ($1.50) per ton for purposes of determining the harvest fee.

2) When logs (used for lumber, cooperage, piling or veneer) are sold and delivered to the primary plant site by the timber owner, a deduction of $125 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer.

3) For pulpwood purchased by weight and delivered to the mill by the timber owner, 50% of the purchase price may be deducted prior to determining the 4% harvest fee.

d) Value determination methods at the mill site, other than for logs for lumber, cooperage, piling, veneer, or pulpwood, shall may be determined by the Department of Natural Resources on request. All requests must state in detail the nature of the product and method of determining mill site value.

3) Logs or pulpwood purchased at the woods edge or at the roadside shall be considered at full purchase price for the purpose of determining the harvest fee.

e) For timber cut by industry on their lands owned by a timber buyer or mill and used by that timber buyer or mill industry in its their production process, value will be determined as a stumpage value. The Illinois Timber Prices Survey, for the quarter when the timber was harvested, (Sept. Dec. 1983, and as updated quarterly) may be used as a guide. ("Illinois Timber Prices" survey published by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources.)
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED ADVENTMENTS

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.25 Aggregate Value Determinations of Timber

a) Primary determination of the aggregate value of timber shall be the total dollar value paid at the first point of sale to a processing facility.

b) Secondary determination of the aggregate value of timber shall be calculated using the Doyle Log Rule, as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons, to determine volume. The highest dollar amount of the commercial timber for tree species had it been offered for sale on the open market will be used for the price. The "Illinois Timber Prices" report issued by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources, for the time frame of the timber harvest, shall be used to determine the commercial timber value.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.30 Volume Estimates

a) When volume estimates are used in the determination of value, the following scales and measurements will be used:


2) Pulpwood, ton or cord – As established by local market specifications in use at the time of cutting or delivery to the pulpwood mill.

3) Piling – Linear feet by grade within established specifications and dimensions in use by the buyer. If such specifications cannot be determined, the Doyle International ¼ Inch Log Rule will be used.

4) Other specialized forest products – Established established local market
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADJUSTMENTS

specification or custom in use at the time of harvest as described by the buyer in a written communication to the Department.

b) Standard forest mensuration procedures shall be used whenever estimates are substituted for actual measurements provided that the procedure has a probability of error of less than ten percent.

c) In the establishment of volume-price values, such published price guides as the Illinois Timber Prices Survey may be used as a guide when published by a government agency, accredited school of forestry or trade association.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.40 Arbitration (Repealed)

a) In the event either party feels payment sought or offered is insufficient and that mutually agreeable figure cannot be reached, they may notify the other in writing that arbitration is sought. When notice is received the second party must notify, in writing, the party seeking arbitration of their acceptance or rejection of arbitration.

b) A list of arbitrators will be maintained by the Department. Listing an Illinois Forestry Development Act (P.A. 83-446, September 17, 1983) arbitrator by appointment of the Director, Department of Natural Resources, will be with the acceptance of the appointee.

e) Appointment as an arbitrator will be made after consideration of overall knowledge in the practice of value assessment of woodland fiber products. Other necessary qualifications are a minimum of five years experience as an Illinois Licensed Timber Buyer under the provisions of the Timber Buyers Licensing Act or a B.S. degree in forestry from an accredited School of Forestry and a minimum of five years as a forester. Accreditation must be from the Society of American Foresters.

d) Acceptance of arbitration by both parties will be a binding agreement. Rejection of arbitration by either party will not alter any option provided by other means.

e) Upon agreement to arbitration the Department will provide, within 30 days, three names of possible arbitrators taken from the Illinois Forestry Development Act
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

list of arbitrators. The party agreeing to arbitration shall select from the names their first choice for arbitrator within 15 days. If the party requesting arbitration rejects the name, the requesting party shall then pick a name from the two remaining names within the following 15 days. The party agreeing to arbitration shall accept or reject that name. If they decline, the remaining individual of the three shall become the arbitrator. Acceptance or rejection shall be made known to the other party within the fifteen (15) day period. After an arbitrator is selected and notified the arbitrator shall have 60 days to complete the necessary investigation and file his report with the Department.

f) Upon appointment, the arbitrator shall determine positions, including materials involved, monetary value and harvest fee due the Department and other information that may be deemed necessary as set forth by each party. Conduct of the investigation shall be in a form established by the arbitrator.

g) The arbitrator's report shall be in writing to both parties. The finding must be in favor of one or the other party's position. The party whose position is not supported by the arbitrator's decision shall be responsible for all arbitration costs and any payment due under the provisions of the Illinois Forestry Development Act (P.A. 83-446, September 17, 1983).

(Source: Repealed at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.50 Information

Anyone wishing additional information concerning this Part, or a supply of Form FPF-1, may contact the Department of Natural Resources at the following address:

Department of Natural Resources
Office of Law Enforcement Division of Forest Resources
One Natural Resources Way 600 North Grand Ave., West
P.O. Box 19255
Springfield, IL 62702-1271
62794-9225

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.60 Penalty

a) Any person violating the provisions of this Part shall, upon finding of guilt by a
court of law conviction, be subject to statutory penalties as prescribed by the The Timber Buyers Licensing Act [225 ILCS 735] (Ill. Rev. Stat. 1987, ch. 111, par. 701 et seq.) and to revocation of license and suspension of privileges refusal to issue any permit or license, as set out in the Timber Buyers Licensing Act.

b) Any such revocation/suspension procedures shall be governed by the Timber Buyers Licensing Act and by Department Revocation Procedures (17 Ill. Adm. Code 2530) by Department Formal Hearings Conducted for Rulemaking and Contested Cases (17 Ill. Adm. Code 2530).

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADJUSTMENTS

1) **Heading of the Part**: Construction in Floodways of Rivers, Lakes and Streams

2) **Code Citation**: 17 Ill. Adm. Code 3700

3) **Section Numbers**: Adopted Action: 3700.40 Amendment

4) **Statutory Authority**: Implementing and authorized by Sections 23, 29a and 30 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a and 30].

5) **Effective Date of Amendments**: April 21, 2003

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 amendments, 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**: February 7, 2003, 27 Ill. Reg. 1872

10) **Has JCAR issued a Statement of Objections to these rules?** 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?** Yes

13) **Will this rulemaking replace an emergency rule 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 addresses for the Department's offices at three locations.

16) **Information and questions regarding these adopted amendments shall be directed to**: Robert Mool
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADJUSTMENTS

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:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADJUSTMENTS

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

PART 3700
CONSTRUCTION IN FLOODWAYS OF RIVERS, LAKES AND STREAMS

Section 3700.10 Purpose
Section 3700.20 Definitions
Section 3700.30 Jurisdiction
Section 3700.40 Permit Application
Section 3700.50 Notice to Interested Parties
Section 3700.60 Departmental Standards
Section 3700.70 Special Provisions for Bridges and Culverts
Section 3700.75 Special Provisions for Levees and Floodwalls
Section 3700.80 Statewide Permits
Section 3700.90 Denial of Applications
Section 3700.100 Violations and Enforcement
Section 3700.110 Final Administrative Decision

AUTHORITY: Implementing and authorized by Sections 23, 29a and 30 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a and 30].


Section 3700.40 Permit Application

An applicant who desires a permit under this Part shall file with the Department an application consisting of a properly executed application form and all plans and information required to determine the effect of the construction on the carrying capacity of the stream. All portions of the application form, including the name and address of the applicant, a description of the proposed activity, the location of the proposed activity, and the names and addresses of all adjoining property owners, shall be completed and all required attachments must be submitted before a determination of permissibility will be made. Application forms may be obtained from the
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

Illinois Department of Natural Resources, Office of Water Resources at the following addresses:

**One Natural Resources Way** 524 S. Second Street  
Springfield IL 62702-1271 62701-1787

**James R. Thompson Center**  
100 West Randolph Street, Suite 5-500A 310 South Michigan Avenue  
Chicago IL 60601 60604

**Region 2 Office**  
2050 West Stearns Road  
Bartlett IL 60103

201 West Center Court 3rd Floor, East  
Schaumburg IL 60196 1096

Many activities permitted under this Part require review of the U.S. Army Corps of Engineers and the Illinois Environmental Protection Agency. To simplify application procedures, the Illinois Department of Natural Resources, Office of Water Resources utilizes a joint application form with these two agencies.

(Source: Amended at 27 Ill. Reg. 7774, effective April 21, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Regulation of Public Waters

2) **Code Citation:** 17 Ill. Adm. Code 3704

3) **Section Numbers:**
   - 3704.50  
   **Adopted Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5].

5) **Effective Date of Amendments:** April 21, 2003

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 amendments, 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:** February 7, 2003, 27 Ill. Reg. 1876

10) **Has JCAR issued a Statement of Objections to these rules?** 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?** Yes

13) **Will this rulemaking replace an emergency rule 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 addresses for the Department's offices.

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

   Robert Mool
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

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:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

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

PART 3704
REGULATION OF PUBLIC WATERS

Section
3704.10 Purpose
3704.20 Definitions
3704.30 Jurisdiction
3704.40 List of Public Waters and Provision For Additions
3704.50 Permit Application
3704.60 Notice to Interested Parties
3704.70 Land Conversions and Fill Material Placement
3704.80 Department Evaluation
3704.90 Departmental Standards
3704.100 Emergency Permit
3704.110 Statewide and Regional Permits
3704.120 General Permits
3704.130 Denial of Applications
3704.140 Violations and Enforcement
3704.150 Final Administrative Decision

APPENDIX A: Public Bodies of Water

AUTHORITY: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5].


Section 3704.50 Permit Application

An applicant who desires a permit under this Part shall file with the Department an application consisting of a properly executed application form and all plans and information required to determine the effect of the construction on the public body of water. All portions of the application form, including the name and address of the applicant, a description of the proposed activity, the location of the activity, and the names and addresses of all adjoining property owners, shall be completed and all required attachments must be submitted before a
determination of permissibility will be made. Application forms may be obtained from the Illinois Department of Natural Resources, Office of Water Resources at any of the following addresses:

**One Natural Resources Way  524 S. Second Street**
Springfield IL  62702-1271  62701-1787

**James R. Thompson Center**
100 W. Randolph Street, Suite 5-500A  310 South Michigan Avenue
Chicago IL  60601  60604

**Region 2 Office**
2050 West Stearns Road
Bartlett IL  60103
201 West Center Court—3rd Floor, East
Schaumburg IL  60196-1096

Many activities permitted under this Part require review of the U.S. Army Corps of Engineers and the Illinois Environmental Protection Agency. To simplify application procedures, the Illinois Department of Natural Resources, Office of Water Resources utilizes a joint application form with these two agencies.

(Source: Amended at 27 Ill. Reg. 7778, effective April 21, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Floodway Construction in Northeastern Illinois

2) Code Citation: 17 Ill. Adm. Code 3708

3) Section Numbers: Adopted Action:
   3708.50 Amendment

4) Statutory Authority: Implementing and authorized by Section 18g of the Rivers, Lakes and Streams Act [615 ILCS 5/18g].

5) Effective Date of Amendments: April 21, 2003

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 amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.


10) Has JCAR issued a Statement of Objections to these rules? 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? Yes

13) Will this rulemaking replace an emergency rule 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 address for the Department's Region 2 Office.

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

   Robert Mool
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

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

PART 3708
FLOODWAY CONSTRUCTION IN NORTHEASTERN ILLINOIS

Section 3708.10 Purpose
Section 3708.20 Definitions
Section 3708.30 Jurisdiction
Section 3708.40 General Provisions
Section 3708.50 Regulatory Floodway Maps
Section 3708.60 Delineation of the Regulatory Floodway
Section 3708.70 Permitting Appropriate Uses of the Regulatory Floodway
Section 3708.80 Changes to the Regulatory Floodway
Section 3708.90 Delegation to Municipalities and Counties
Section 3708.100 Violations
Section 3708.110 Permit Application
Section 3708.120 Public Notice
Section 3708.130 Public Hearings
Section 3708.140 Time to Permit Issuance; Emergency Authorizations; Duration; Revisions
Section 3708.150 Permit Conditions
Section 3708.160 General Permits
Section 3708.170 Regional Permits
Section 3708.180 Final Administrative Decisions
Section 3708.190 Effective Date

AUTHORITY: Implementing and authorized by Section 18g of the Rivers, Lakes and Streams Act [615 ILCS 5/18g].


Section 3708.50 Regulatory Floodway Maps
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

The Department will compile and keep a list of all regulatory floodway maps it has designated. The list will indicate the source and date of each designated map. Each municipality and county will be given a list of designated regulatory floodway maps in effect in its jurisdiction. A copy of the list will be available for inspection in the Office of Water Resources at the Region 2 Office, 2050 West Stearns Road, Bartlett IL 60103. 201 West Center Court, Schaumburg, Illinois.

(Source: Amended at 27 Ill. Reg. 7782, effective April 21, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED ADMENDMENTS

1) **Heading of the Part**: Allocation of Water From Lake Michigan

2) **Code Citation**: 17 Ill. Adm. Code 3730

3) **Section Numbers**:
   - Adopted Action:
     - 3730.103 Amendment

4) **Statutory Authority**: Implementing and authorized by the Level of Lake Michigan Act [615 ILCS 50].

5) **Effective Date of Amendments**: April 21, 2003

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 amendments, 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**: February 7, 2003, 27 Ill. Reg. 1884

10) Has JCAR issued a Statement of Objections to these rules? 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? Yes

13) Will this rulemaking replace an emergency rule 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 Department's address.

16) **Information and questions regarding these adopted amendments shall be directed to**:
    Robert Mool
### DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF ADOPTED AMENDMENTS**

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

**PART 3730**  
**ALLOCATION OF WATER FROM LAKE MICHIGAN**

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3730.307 Conservation Practices and Other Permit Conditions
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3730.309 Reporting Requirements
3730.310 Petitions for Modification

SUBPART D: ADMINISTRATIVE REVIEW

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

SUBPART E: PENALTIES

Section
3730.501 Penalties

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


SUBPART A: GENERAL RULES

Section 3730.103 Filing

Documents and requests permitted or required to be filed with the Hearing Officer shall be
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

addressed to and mailed to or filed with the Hearing Officer at the following address:

Hearing Officer
Lake Michigan Allocation Proceedings
Illinois Department of Natural Resources
One Natural Resources Way 524 S. Second Street
Springfield IL 62702-1271 Illinois 62701-178

or with such other person as the Director may designate from time to time.

(Source: Amended at 27 Ill. Reg. 7786, effective April 21, 2003)
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED ADMENDMENTS

1) **Heading of the Part:** Funeral Directors and Embalmers Licensing Code

2) **Code Citation:** 68 Ill. Adm. Code 1250

3) **Section Numbers:**  
   - 1250.110 Amendment
   - 1250.120 Amendment
   - 1250.135 Amendment
   - 1250.140 Amendment
   - 1250.150 Amendment
   - 1250.160 Amendment

4) **Statutory Authority:** Funeral Directors and Embalmers Licensing Code [225 ILCS 41].

5) **Effective Date of Amendments:** April 21, 2003

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 amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Date Notice of Proposal Published in Illinois Register:** January 10, 2003, at 27 Ill. Reg. 470.

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

11) **Differences between proposal and final version:** Various technical changes have been made.

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 these Amendments replace Emergency Amendments currently in effect?** Yes

14) **Are there any Amendments pending on this Part?** No

15) **Summary and Purpose of Amendments:** Section 1250.140 has been amended to reflect the fact that the examination administrator changed its name. In addition, the passing score has
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED ADMENDMENTS

been changed to the passing score designated by the testing entity. Obsolete language has also been deleted and other technical changes have been made.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax#: 217/782-7645

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED ADJUSTMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1250
FUNERAL DIRECTORS AND EMBALMERS LICENSING CODE

Section
1250.110 Approved Programs of Mortuary Science
1250.120 Application for Traineeship
1250.130 Requirements of Traineeship
1250.135 Application for Licensure
1250.140 Examination
1250.150 Reciprocity
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1250.170 Requirements for a Preparation Room
1250.180 Required Activities (Repealed)
1250.190 Violations (Repealed)
1250.200 Renewals
1250.205 Advertising
1250.210 Granting Variances
1250.220 Continuing Education

AUTHORITY: Implementing the Funeral Directors and Embalmers Licensing Code [225 ILCS 41] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED ADMENDMENTS


Section 1250.110 Approved Programs of Mortuary Science

a) The Department of Professional Regulation (the Department) shall approve a program of mortuary science as reputable and in good standing if it meets the following minimum criteria:

1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to provide courses in mortuary science.

2) Has a faculty that comprises a sufficient number of full-time and part-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence in their areas of teaching as evidenced by appropriate degrees from recognized professional colleges or institutions.

3) Has one of the following:

A) A course of study of at least 12 months with at least the following curriculum:

Anatomy
Restorative Art
Microbiology
Embalming
Sociology
Psychology
Chemistry

B) A course of study resulting in an associate's degree in mortuary science or an equivalent associate's degree (i.e., applied science), consisting of courses in liberal arts and sciences as well as the curriculum described in subsection (a)(3)(A) above.

C) A course of study resulting in a baccalaureate degree in mortuary science.
DEPARTMENT OF PROFESSIONAL REGULATION

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4) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

b) In determining whether a program should be approved, the Department shall take into consideration but not be bound by accreditation by the American Board of Funeral Service Education, Inc.

c) The Department has determined that all mortuary science programs accredited by the American Board of Funeral Service Education, Inc. as of January 1, 2003, meet the minimum criteria set forth in subsection (a), above and are, therefore, approved.

d) Program Evaluation

1) An applicant from a program of mortuary science that has not been evaluated shall be requested by the Department to provide documentation concerning the criteria in this Section.

2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Department will evaluate the program based on all documentation received from the school and any additional information the Department has received that it deems to be reliable.

e) Withdrawal of Approval

1) The Director of the Department (the Director) may withdraw, suspend or place on probation the approval of a program of mortuary science when the quality of the program has been materially affected by any of the following causes:


B) Gross or repeated violations of this Part any of these Rules;

C) Fraud or dishonesty in furnishing documentation for evaluation of
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the program of mortuary science; or

D) Failure to continue to meet the established criteria for an approved program as set out in this Section.

2) The officials in charge of a program whose approval is being reconsidered by the Department shall be given written notice prior to any action by the Department and those officials may either submit written comments or request a hearing before the Department in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003)

Section 1250.120 Application for Traineeship

a) An applicant for a license as a funeral director and embalmer trainee shall file an application on forms supplied by the Department. The application shall include:

1) One of the following Either:

A) An official transcript showing proof of successful completion of at least 30 semester (45 quarter) hours of college credit, not including remedial courses, from an accredited college or university that shall include at least 20 semester (30 quarter) hours of courses in liberal arts, physical, biological, and/or applied sciences; and certification of graduation from a course of study of at least 12 months in an approved program of mortuary science;

B) Certification of graduation with an associate's degree in mortuary science or an equivalent associate's degree (i.e., applied science) from an approved program of mortuary science; or

C) Certification of a baccalaureate degree in mortuary science from an approved program of mortuary science;

2) Certificate of Health, attesting that the applicant has been immunized against diphtheria, hepatitis B and tetanus, signed by a physician currently licensed to practice medicine in all of its branches;
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3) Certification of acceptance, completed and signed by a licensed funeral director and embalmer whose license is active and in good standing, stating that the applicant will be studying and training under his/her supervision;

4) A complete work history since completion of an approved program as set forth in Section 1250.110; and

5) The required fee set forth in Section 1250.165 of this Part.

b) Upon receipt of the above documents and review of the application, the Department shall issue a funeral director and embalmer trainee license or notify the applicant, in writing, of the reason for the denial of the application.

c) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.

d) All Effective June 1, 1991, all qualified applicants will be issued a funeral director and embalmer trainee license.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003.)

Section 1250.135 Application for Licensure

a) An applicant for a license as a funeral director and embalmer, pursuant to Section 10-10 of the Code, shall file an application on forms supplied by the Department. The application shall include the following:

1) Certification of completion of traineeship signed by the licensed funeral director and embalmer under whose supervision the traineeship was performed.

2) Certificate of Health, attesting that the applicant has been immunized against diphtheria, hepatitis B and tetanus, signed by a physician currently licensed to practice medicine in all of its branches.

3) Verification of successful completion of the International Conference of Funeral Service Examining Boards, Inc. examination, pursuant to Section 1250.140, to be forwarded by the
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National conference directly to the Department.

4) A complete work history since completion of an approved program as set forth in Section 1250.110.

5) Applicants not having been issued Illinois funeral director and/or embalmer trainee licenses or who have been issued one that which has been expired for more than 5 years shall submit the following:

A) Official transcripts showing proof of successful completion of at least 30 semester (45 quarter) hours of college credit, not including remedial courses, that which shall include at least 20 semester (30 quarter) hours of courses in liberal arts, physical, biological, and/or applied sciences; and certification of graduation from a course of study of at least 12 months in an approved program of mortuary science;

B) Certification of graduation with an associate's degree in mortuary science from an approved program of mortuary science or an equivalent associate's degree (i.e., applied science); or

C) Certification of a baccalaureate degree in mortuary science from an approved program of mortuary science.

6) The fee specified in Section 1250.165.

b) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the applicant to engage in the practice of funeral directing and embalming or notify the applicant, in writing, of the reason for the denial of the application.

c) Beginning June 1, 1991, the Department shall not issue any new licenses as funeral directors or any new licenses for embalmers.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003)

Section 1250.140 Examination

a) The examination shall be the examination administered by the International
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The Conference of Funeral Service Examining Boards, Inc. and shall cover National Board Examination of the Conference of Funeral Service Examiners written theoretical examination and shall be as follows:

1) Part I (Funeral Service Science):
   A) Embalming
   Restorative Art
   C) Microbiology
   D) Pathology
   E) Chemistry
   F) Anatomy

2) Part II (Funeral Service Arts):
   A) Sociology of Funeral Service
   B) Psychology and Counseling
   C) Funeral Directing and Professional Relationships
   D) Business Law
   E) Funeral Service Law
   F) Funeral Merchandising
   G) Accounting

3) The Department shall receive verification of the successful completion of the International Conference of Funeral Service Examining Boards, Inc. examination. The passing score shall be the passing score established by the testing entity. Successful completion
shall be an average score of 75% or greater with no score less than 70% on any one part. Verification shall be received directly from the International Conference of Funeral Service Examining Boards, Inc. National Conference of Funeral Service Examiners.

4) A score of 75% shall be required for each part retaken.

b) An examination fee shall be paid to the designated testing service for each examination or any part retaken.

c) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003)

Section 1250.160 Restoration

a) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the following:

1) The restoration fees specified in Section 1250.165. When restoring a license from inactive status, a person is required to pay the current renewal fee set forth in Section 1250.165.

2) Proof of completion of the required number of continuing education (CE) hours for one prerenewal period as specified in Section 1250.220 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by approved sponsors of continuing education programs.

3) One of the following Either:

A) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of the said active practice;

B) An affidavit attesting to military service as provided in Sections 5-
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15 and 10-35 of the Code. If application is made within 2 years after discharge, and if all other provisions of Sections 5-15 and 10-35 of the Code are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees; or

C) Evidence of other education or experience acceptable to the Department of the licensee's fitness to have the license restored.

The evidence shall be reviewed on a case by case basis by the Board.

b) A licensee seeking restoration of a license that has expired or been on inactive status for less than 5 years, or has been placed in nonrenewed status for failure to comply with CE requirements, shall file an application on forms provided by the Department, together with the following:

1) The restoration fees specified in Section 1250.165. When restoring a license from inactive status, a person is required to pay the current renewal fee set forth in Section 1250.165.

2) Any licensee restoring a license after June 1, 1993, shall be required to submit proof of completion of the required number of CE hours for one prerenewal period as specified in Section 1250.220 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs.

c) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 65 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience, is questioned by the Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of a license will be requested to:

1) Provide such information as may be necessary; and/or
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2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon the recommendation of the Board and approval by the Department, an applicant shall have the license restored.

e) Persons to whom a funeral director license and embalmer license were issued prior to June 1, 1991, shall be required to restore both licenses. Persons to whom a funeral director license was issued prior to June 1, 1991, will be allowed to restore that license.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003)

Section 1250.200 Renewals

a) Every license issued under the Code shall expire on May 31 of each odd numbered year. The holder of a license may renew it during the month preceding its expiration date by paying the required fee.

b) All Beginning with the 1993 renewal, all funeral director licensees and funeral director and embalmer licensees shall be required to comply with the continuing education requirements set forth in Section 1250.220 of this Part.

c) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee and to renew one's license.

d) No license of a funeral director and embalmer trainee shall be renewed more than twice (Section 10-35 of the Code).

e) Practicing or attempting to practice while a license is non-renewed shall be considered unlicensed practice and shall be grounds for discipline in accordance with Section 15-75 of the Code.

(Source: Amended at 27 Ill. Reg. 7791, effective April 21, 2003)
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1) **Heading of the Part:** Naprapathic Practice Act

2) **Code Citation:** 68 Ill. Adm. Code 1295

3) **Section Numbers:**

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4) **Statutory Authority:** Naprapathic Practice Act [225 ILCS 63].

5) **Effective Date of Amendments:** April 21, 2003

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 amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Date Notice of Proposal Published in Illinois Register:** December 16, 2002, at 26 Ill. Reg. 18484.

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

11) **Differences between proposal and final version:** In Section 1295.20, submission of proof of passage of the National Board of Naprapathic Examiners examination has been deleted as an application requirement.

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes
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13) Will these Amendments replace Emergency Amendments currently in effect? Yes

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

15) Summary and Purpose of Amendments: Public Act 92-655 is the sunset reauthorization of the Naprapathic Practice Act. Among its changes was moving the statutory licensure and renewal fees to administrative rule; these amendments implement this provision, as well as provide for continuing education. Section 1295.80, detailing unprofessional conduct, is also added. Various other technical revisions are also included, including repealing Section 1295.05, the expired grandfathering provisions.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois  62786
217/785-0813     Fax #: 217/782-7645

The full text of the Adopted Amendments begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1295
NAPRAPATHIC PRACTICE ACT

Section
1295.05 Application for Licensure as a Naprapath under Section 65 of the Act (Grandfather) (Repealed)
1295.10 Approved Naprapathy Program
1295.20 Application for Licensure on the Basis of Examination
1295.30 Examination
1295.40 Endorsement
1295.50 Renewals
1295.60 Inactive Status
1295.70 Restoration
1295.75 Fees
1295.80 Unprofessional Conduct
1295.100 Continuing Education
1295.110 Granting Variances

AUTHORITY: Implementing the Naprapathic Practice Act (225 ILCS 63) and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois (20 ILCS 2105/15-2105(7)).


Section 1295.05 Application for Licensure as a Naprapath under Section 65 of the Act (Grandfather) (Repealed)

a) Any person seeking a license under Section 65 of the Naprapathic Practice Act (the Act) shall file an application with the Department of Professional Regulation (the Department), on forms provided by the Department. The application shall be postmarked no later than June 30, 1998, and shall include the following:

1) Verification of:
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A) Employment as a naprapath for remuneration for at least 10 years prior to June 30, 1995. Employment shall be documented by one or more of the following:

i) Certification of experience, on forms provided by the Department, signed and notarized under oath by an employer; or

ii) Three affidavits submitted by colleagues familiar with the applicant's work;

B) Graduation from a naprapathic program approved pursuant to Section 1295.10 of this Part; and

C) Clinical skills as follows:

i) Documentation of attendance for a minimum of 60 hours of clinical education in naprapathy within the last 5 years. Programs shall have been offered by, but not limited to, organizations such as the American Naprapathic Association, Chicago National College of Naprapathy and Illinois Naprapathic Association; or

ii) Successful completion of the written clinical competency examination set forth in Section 1295.30 of this Part.

2) A complete work history since graduation from a naprapathic program approved pursuant to Section 1295.10 of this Part.

3) The required fee set forth in Section 85(a) of the Act.

4) Certification, on forms provided by the Department, from all jurisdictions in which the applicant has ever been licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license; and

B) Whether the file on the applicant contains any record of
b) When the accuracy of any submitted documentation or experience is questioned by the Department or the Naprapathic Examining Committee (the Committee) because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Committee to explain relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

e) If upon review the clinical skills of the applicant are determined by the Committee not to meet requirements set forth in subsection (a)(1)(C)(ii) above, the applicant shall be required to take the clinical competency examination set forth in Section 1295.20 of this Part.

(Source: Repealed at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.10 Approved Naprapathy Program

The Department shall, upon the recommendation of the Committee, approve a naprapathy program if it meets the following minimum criteria:

a) The curriculum in naprapathy shall be a 4-year academic program in a minimum of 3 calendar years and provide for the equivalent of 2 calendar years of academic work and one calendar year of clinical experience

1) Academic work shall be a minimum of 130 credit hours, including:

   A) 66 credit hours in basic sciences (e.g., anatomy, physiology, pathology, kinesiology, neurology, biochemistry) specialized for the study of connective tissue; and

   B) 64 credit hours in clinical sciences, to include but not be limited to the major areas of:

Naprapathic Sciences
ii) Naprapathic theory and application: Oakley Smith method of chartology, chardosis, directopanning, naprapathic technique, connective tissue manipulation; therapeutic and rehabilitative exercise; postural counseling; nutritional counseling; evaluation procedures; physical agents and related modalities; electrotherapy; connective tissue massage; accessory techniques/adjunctives; assistive devices; practice management psychology; and professional issues.

2) Clinical experience shall be a minimum of 60 credit hours, including:
   A) 1000 contact hours served in the clinic; and
   B) 350 full-credit evaluations.

3) The school shall:
   A) Admit only students who have completed at a minimum a 2-year college level program of general education (60 semester or 90 quarter hours) from an accredited institution of higher education.
   B) Be legally recognized and authorized by the jurisdiction in which it is located to confer a doctor of naprapathy degree.
   C) Have a faculty that comprises a sufficient number of full-time instructors to make certain the educational obligations to students are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges and institutions.
   D) Maintain permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

b) Until June 30, 1998, an applicant may receive an equivalent of 3 semesterhours of college course work for each year of naprapathic practice.

e) In determining whether a program should be approved, the Department shall take
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into consideration but not be bound by accreditation from the American Naprapathic Association (ANA).

c) Recommendation of Approval

1) The Department, upon recommendation of the Committee, has determined that all naprapathic programs accredited by the ANA as of January 1, 1996, meet the minimum criteria set forth in subsection (a) above and, therefore, are approved.

2) In the event of a decision by the ANA to suspend, withdraw or revoke accreditation of any naprapathic program, the Committee shall proceed to evaluate the program and either approve or disapprove it in accordance with subsection (a) above.

(Source: Amended at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.20 Application for Licensure on the Basis of Examination

a) An applicant for a naprapath license by examination shall apply on forms approved by the Department at least 60 days prior to an examination date. The application shall include:

1) An official transcript indicating the completion of a 2 year degree or its equivalent at an accredited college or university;

2) Certification and/or transcript of successful completion of a naprapathic program signed by the director of the approved naprapathic program or other authorized college official and bearing the seal of the college;

3) Proof of successful passage of Part I and Part II of the National Board of Naprapathic Examiners examination;

4) A complete work history indicating all employment since graduation from a naprapathy program; and

5) The required fee specified in Section 1295.75 §5(a) of the Act.

b) If supporting documentation for the application is not in English, a certified
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translation must be included.

c) If the applicant has ever been licensed/registered in another jurisdiction, he/she shall also submit a certification, on forms provided by the Department, from all jurisdictions in which the applicant has ever been licensed, stating:

1) The time during which the applicant was registered/licensed in that jurisdiction, including the date of the original issuance of the license;

2) A description of the examination in that jurisdiction; and

3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Committee to explain relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.40 Endorsement

a) An applicant who is licensed/registered under the laws of another jurisdiction who wishes to be licensed in Illinois as a naprapath shall file an application with the Department, on forms provided by the Department, which includes:

1) Certification of meeting education requirements as set forth in Section 1295.10 of this Part or the education requirements in effect at the time of original licensure;

2) Certification from all jurisdictions in which the applicant has been licensed, stating the time during which the applicant was licensed in that jurisdiction, whether the file on the applicant contains any disciplinary
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actions taken or pending, and the applicant's license number;
3) A report of the applicant's examination record forwarded directly from the test reporting service;
4) Complete work history since graduation from a naprapathy program approved pursuant to Section 1295.10 of this Part; and
5) The required fee specified in Section 1295.75 of the Act.

b) The Department shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.

c) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

(Source: Amended at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.50 Renewals

a) Every naprapath license issued under the Act shall expire on December 31 of each even numbered year. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee and, beginning with December 31, 2006 renewal and every renewal thereafter, completing continuing education (CE) in accordance with Section 1295.100.

b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license or pay the renewal fee.

c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 120 of the Act.

(Source: Amended at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.60 Inactive Status
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a) Licensed naprapaths who notify the Department, on forms provided by the Department, may place their licenses on inactive status and shall be excused from paying renewal fees until they notify the Department in writing of the intention to resume active practice.

b) Any licensed naprapath seeking restoration from inactive status shall pay the current renewal fee specified in Section 1295.75(d) of the Act and have the license restored in accordance with Section 1295.70 of this Part.

c) Any naprapath whose license is on inactive status shall not use the title "licensed naprapath" or practice naprapathy in the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.70 Restoration

a) Any naprapath whose license has expired for 5 years or less may have the license restored by paying the fees required by Section 1295.75(d) of the Act. After December 31, 2006, a licensee seeking restoration of a license shall also be required to submit proof of the required hours of continuing education in accordance with Section 1295.100. These CE hours shall be earned within the 2 years immediately preceding the restoration of the license.

b) A licensee seeking restoration of a license that has been on inactive status for less than 5 years shall have the license restored upon payment of the current renewal fee. After December 31, 2006, a licensee seeking restoration of a license shall also be required to submit proof of the required hours of continuing education in accordance with Section 1295.100. These CE hours shall be earned within the 2 years immediately preceding the restoration of the license.

c) Any person seeking restoration of a license that has been expired or on inactive status for more than 5 years shall file an application, on forms supplied by the Department, for review by the Committee, together with the fee required by Section 1295.75(d) of the Act. The applicant also shall submit one of the following:

1) Sworn evidence of active practice in another jurisdiction. Such evidence
shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice; or

2) An affidavit attesting to military service as provided in Section 70 of the Act; or

3) Proof of passage of the naprapath examination set forth in Section 1295.30 of this Part during the period the license was lapsed or on inactive status; or

4) Evidence of completion of:

A) 80 contact hours, certified by the school, of clinical training under the supervision of a licensed naprapath or 100 hours of continuing education in naprapathy or any combination thereof approved by the Committee for an applicant whose license has lapsed or been on inactive status for 6 to 10 years.

B) 160 contact hours, certified by the school, of clinical training under the supervision of a licensed naprapath or 200 hours of continuing education in naprapathy or any combination thereof approved by the Committee for an applicant whose license has lapsed or been on inactive status for 10 years or more.

When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Committee to explain relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

Upon recommendation of the Committee and approval by the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.
Section 1295.75  Fees

The following fees shall be paid to the Department for the administration of the Act and are not refundable:

a)  Application Fees

1)  The fee for application for a license is $250.

2)  The fee for application as a continuing education sponsor is $250. State colleges, universities, and State agencies are exempt from payment of this fee.

b)  Renewal Fees

1)  The fee for the renewal of a license shall be calculated at the rate of $125 per year.

2)  The fee for renewal as a continuing education sponsor is $125 for the renewal period.

c)  General Fees

1)  The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees, but not to exceed $600.

2)  The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Department records when no duplicate license is issued.

3)  The fee for a certification of a licensee’s record for any purpose is $20.

4)  The fee to have the scoring of an examination authorized by the Department reviewed and verified is $20 plus any fees charged by the applicable testing service.
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5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

6) The fee for a roster of persons licensed as naprapaths in this State shall be the actual cost of producing the roster.

(Source: Added at 27 Ill. Reg. 7803, effective April 21 2003)

Section 1295.80 Unprofessional Conduct

Pursuant to Section 110 of the Act, unprofessional conduct in the practice of naprapathy shall include but not be limited to:

a) The promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.

b) Directly or indirectly offering, giving, soliciting or receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient or client.

c) Revealing of personally identifiable facts, data or information about a patient or client obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.

d) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.

e) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person to whom the responsibilities were delegated is not qualified by training, experience or licensure to perform them.

f) Overutilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.

g) Making gross or deliberate misrepresentations or misleading claims as to
professional qualifications or of the efficacy or value of the treatments or remedies
given or recommended, or those of another practitioner.

h) Gross and willful and continued overcharging for professional services, including
filing false statements for collection of fees for which services are not rendered.

i) Failing to maintain for at least 3 years a record for each patient that accurately
reflects the evaluation and treatment of the patient.

j) Advertising or soliciting for patronage in a manner that is fraudulent or misleading.
Examples of advertising or soliciting that are considered fraudulent or misleading
shall include, but not be limited to: advertising that contains false, fraudulent,
deceptive or misleading materials, warranties or guarantees of success, statements
that play upon vanities or fears of the public or statements that promote or produce
unfair competition.

(Source: Added at 27 Ill. Reg. 7803, effective April 21, 2003)

Section 1295.100  Continuing Education

a) Continuing Education Hour Requirements

1) Beginning with the December 31, 2006 renewal, every renewal applicant
shall complete 30 hours of Continuing Education (CE) relevant to the
practice of naprapathy required during each prerenewal period. A
prerenewal period is the 24 months preceding December 31 in the year of
the renewal.

2) A CE hour equals 60 minutes. After completion of the initial CE hour,
credit may be given in one-half hour increments.

3) Courses that are part of the curriculum of a university or college shall be
allotted CE credit at the rate of 15 CE hours for each semester hour or
10 CE hours for each quarter hour of academic credit awarded.

4) A renewal applicant is not required to comply with CE requirements for the
first renewal following the original issuance of the license.

5) Naprapaths licensed in Illinois but residing and practicing in other states
must comply with the CE requirements set forth in this Section.

b) Approved Continuing Education

1) Continuing education hours may be earned by verified attendance at or participation in a program that is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c).

2) CE credit may also be earned as follows:

A) A maximum of 8 hours may be earned per prerenewal period for papers prepared and delivered before recognized naprapathic organizations, papers published in nationally recognized naprapathic journals, or a chapter in a book of naprapathy, each appropriately verified.

B) A licensee who serves as an instructor, speaker or discussion leader of a CE program will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course. The instructor must be able to provide verification of unique content for each CE course taught via course goals, objectives and outline.

C) A maximum of 1 hour of continuing education in cardiopulmonary resuscitation may be earned per prerenewal period.

3) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.

4) Credit shall not be given for courses taken in Illinois from unapproved sponsors.

c) Continuing Education Sponsors and Programs

1) Approved sponsor, as used in this Section, shall mean:

A) The American Naprapathic Association or its affiliates;
B) The North American Naprapathic Association or its affiliates; or

C) Any other person, firm, association, corporation, or group that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section upon the recommendation of the Committee to coordinate and present continuing education courses or programs.

2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(C) shall file a sponsor application, along with the required fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:

A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;

B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of completion as set forth in subsection (b); and

C) That upon request by the Department, the sponsor will submit evidence as is necessary to establish compliance with this Section. This evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

3) Each sponsor shall submit by December 31 of each even-numbered year a renewal application along with the renewal fee. With the application, the sponsor shall be required to submit to the Department a list of all courses and programs offered in the prerenewal period, which includes a description, location, date and time the course was offered.

4) All courses and programs shall:

A) Contribute to the advancement, extension and enhancement of
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- professional clinical skills and scientific knowledge in the practice of naprapathy;

B) Provide experiences that contain scientific integrity, relevant subject matter and course materials; and

C) Be developed and presented by persons with education and/or experience in the subject matter of the program.

5) The tuition fees charged for programs conducted by the approved sponsors shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.

6) All programs given by approved sponsors shall be open to all licensed naprapaths and not be limited to the members of a single organization or group and shall specify the number of CE hours.

7) Certificate of Attendance

A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

i) The name and address of the sponsor;

ii) The name and address of the participant and their naprapathic license number;

iii) A detailed statement of the subject matter;

iv) The number of hours actually attended in each topic;

v) The date of the program; and

vi) The signature of the sponsor.

B) The sponsor shall maintain these records for not less than 5 years.

8) The sponsor shall be responsible for assuring verified continued attendance
at each program. No renewal applicant shall receive credit for time not actually spent attending the program.

9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before any recommendation by the Committee pursuant to the Administrative Hearing Rules (see 68 Ill. Adm. Code 1110) shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until the time as the Department receives reasonably satisfactory assurances of compliance with this Section.

d) Continuing Education Earned in Other States

1) If a licensee has earned CE hours in another state or territory for which he/she will be claiming credit toward full compliance in Illinois, that licensee shall submit an out-of-state CE approval form along with a $20 processing fee within 90 days of completion of the course. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

2) If a licensee fails to submit an out-of-state CE approval form within the required time, late approval may be obtained by submitting the application with the $20 processing fee plus a $10 per hour late fee not to exceed $150. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

e) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) of this Section.

2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The evidence shall be retained for at least 5 years following the renewal period in which the CE was taken.

3) The Department may conduct random audits to verify compliance with CE requirements.
4) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Committee, at which time the Committee may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 1295.75, a statement setting forth the facts concerning such non-compliance, and a request for waiver of the CE requirements on the basis of these facts. If the Department, upon the written recommendation of the Committee, finds from the affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Department shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or

B) Extreme hardship, which shall be determined on an individual basis by the Committee and shall be limited to documentation of:

i) An incapacitating illness documented by a currently licensed physician.

ii) A physical inability to travel to the sites of approved programs, or

iii) Any other similar extenuating circumstances.

3) If an interview with the Committee is requested at the time the request for waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
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NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 27 Ill. Reg. 7803, effective April 21, 2003)
DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED ADMENDMENTS

1) Heading of the Part:  Medical Payment

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

3) Section Numbers:  Adopted Action:
   140.20  Amendment

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

5) Effective Date of Amendments:  May 1, 2003

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 materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:
   December 13, 2002 (26 Ill. Reg. 17646)

10) Has JCAR issued a Statement of Objections to these rules?  No

11) Differences Between Proposal and Final Version:
   No changes have been made to this proposed rulemaking.

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

13) Will these amendments replace emergency amendments currently in effect?  No

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

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140.420 Amendment March 14, 2003 (27 Ill. Reg. 4470)
140.421 Amendment March 14, 2003 (27 Ill. Reg. 4470)
140.471 Amendment March 28, 2003 (27 Ill. Reg. 5127)
140.472 Amendment March 28, 2003 (27 Ill. Reg. 5127)
140.474 Amendment March 28, 2003 (27 Ill. Reg. 5127)
140.514 Amendment March 21, 2003 (27 Ill. Reg. 4888)
140.530 Amendment August 30, 2002 (26 Ill. Reg. 13026)
140.642 Amendment March 21, 2003 (27 Ill. Reg. 4888)
140.860 New Section September 6, 2002 (26 Ill. Reg. 13146)
Table D Amendment March 14, 2003 (27 Ill. Reg. 4470)

15) Summary and Purpose of Amendments:

These changes regarding medical payment are necessary to correct an error that was adopted to 89 Ill. Adm. Code 140.20 on September 26, 2002. Prior to this adoption, Section 140.20 required Medicaid claims, in accordance with federal regulation, to be received by the Department within 12 months after the date of service. The adopted amendments allow a submittal period of 24 months for Medicare/Medicaid claims. The changes were intended to address an often inadequate 12 month time frame since the Department does not receive Medicare/Medicaid crossover claims until after the provider has received notice of disposition of the Medicare claim.

Prior to the adoption of September 26, 2002, first notice changes were made to simplify the proposed text. However, the changes included the following statement, in error: “This exception does not apply to inpatient claims for participants with Medicare Part B coverage only.” These changes correct this error and thereby allow the expanded time limitation of 24 months for all claims that involve disposition by Medicare or its fiscal intermediary.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page.
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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

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MEDICAL PAYMENT

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140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
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140.21  Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
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SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.20 Submittal of Claims

a) When claims for payment are submitted to the Department, providers shall:

1) Use Department designated billing forms for submittal of charges, and

2) Certify that:

   A) They have personally rendered the services and provided the items for which charges are being made,
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B)  Payment has not been received, or that only partial payment has been received,

C)  The charge made for each item constitutes the complete charge,

D)  They have not, and will not, accept additional payment for any item from any person or persons, and

E)  They will not make additional charges to, nor accept additional payment from, any persons if the charges they present are reduced by the Department to conform to Department standards.

b)  Statement of Certification

1)  All billing statements shall contain a certification statement that must remain unaltered, and must be legibly signed and dated in ink by the provider or his authorized representative. A rubber stamp or facsimile signature is not acceptable.

2)  An "authorized representative" may only be a trusted employee over whom the provider has direct supervision on a daily basis and who is personally responsible on a daily basis to the provider. Such representative must be specifically designated and must sign the provider's name and his or her own initials on each certification statement.

c)  To be eligible for payment consideration, a provider's vendor-payment claim or bill, either as an initial or resubmitted claim following prior rejection, must be received by the Department, or its fiscal intermediary, no later than 12 months after the date on which medical goods or services were provided, with the following exception. The Department must receive a claim after disposition by Medicare or its fiscal intermediary no later than 24 months after the date on which medical goods or services were provided. This exception does not apply to inpatient claims for participants with Medicare Part B coverage only.

d)  Claims that are not submitted and received in compliance with the foregoing requirements will not be eligible for payment under the Department's Medical Assistance Program, and the State shall have no liability for payment thereof.

(Source: Amended at 27 Ill. Reg. 7823, effective May 1, 2003)
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1) **Heading of the Part:** Child Support Enforcement

2) **Code Citation:** 89 Ill. Adm. Code 160

3) **Section Numbers:**
   - **Adopted Action:**
     - 160.70 Amendment

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

5) **Effective Date of Amendments:** May 1, 2003

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 materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:**
   - December 13, 2002 (26 Ill. Reg. 17666)

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences Between Proposal and Final Version:**
    In subsection (c)(9)(B), “or hers” has been added after “his”.
    In subsection (c)(10), “(c)” has been added after “this subsection”.
    In subsection (g)(2)(C)(iv), “or Levy” has been added after “Notice of Lien”.
    Subsection (j)(5)(B), has been revised as follows: “...cases for the which the...”.
    Subsection (m)(2)(C), has been revised as follows: “...expressed within a range...”.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes
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13) **Will these amendments replace emergency amendments currently in effect?**  No

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

15) **Summary and Purpose of Amendments:**

   These changes are being filed pursuant to Public Act 92-373 and Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1]. The amendments are intended to assist in the enforcement of child support orders and specify criteria concerning the Deadbeats Most Wanted List, which will contain names of responsible relative owing past-due child support. The list will contain the names of up to 200 responsible relatives who owe $5,000 or more in past-due support, and the list will be made available for public inspection at Department offices or by some means of publication including the Internet. The amendments also specify requirements on advance notice to responsible relatives, satisfactory payment plans, administrative hearings, and staying of the Department from publishing past-due support information regarding a specific responsible relative.

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

   Joanne Scattoloni  
   Office of the General Counsel, Rules Section  
   Illinois Department of Public Aid  
   201 South Grand Avenue East, Third Floor  
   Springfield, Illinois  62763-0002  
   (217) 524-0081

   The full text of the adopted amendments begins on the next page:
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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

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160.15 Application Fee for IV-D Non-TANF Cases
160.20 Assignment of Rights to Support
160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section
160.30 Cooperation With Support Enforcement Program
160.35 Good Cause for Failure to Cooperate with Support Enforcement
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section
160.60 Establishment of Support Obligations
160.61 Uncontested and Contested Administrative Paternity and Support Establishment
160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program (Repealed)
160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section
160.70 Enforcement of Support Orders
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160.71 Credit for Payments Made Directly to the Title IV-D Client
160.75 Withholding of Income to Secure Payment of Support
160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
160.80 Amnesty - 20% Charge (Repealed)
160.85 Diligent Efforts to Serve Process
160.88 State Case Registry

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section 160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.95 State Disbursement Unit
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support For Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
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SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the
Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.
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SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

a) Definitions

1) The definitions contained in Section 160.60(a) are incorporated herein by reference.

2) “Qualified child” means a child who is a minor or who, while a minor, was determined to be disabled under Title II or XVI of the Social Security Act, and for whom a support order is in effect.

b) Income Withholding

Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

c) Federal and State Income Tax Refunds and Other Payments

1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.

2) The Department shall submit past-due support amounts to:

A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:

i) in IV-D TANF and IV-D foster care cases, past-due support
owed for a child or for a child and the parent with whom
the child is living in an amount not less than $150 which
has been in arrears for three months or longer; and

ii) in IV-D non-TANF cases, past-due support owed to or on
behalf of a qualified child, or a qualified child and the
parent with whom the child is living if the same support
order includes support for the child and the parent, and the
amount of past-due support is not less than $500.

B) the Comptroller to intercept State income tax refunds and other
State payments as follows:

i) in active IV-D cases, past-due support owed in an amount
not less than one month's support obligation or $150,
whichever is less;

ii) in inactive IV-D TANF or AFDC and IV-D foster care
cases, past-due support owed in any amount; and

iii) in cases in which the responsible relative who owes past-
due support is receiving periodic payments from this State
because of employment, disability, retirement or any other
reason, the Department shall, upon obtaining knowledge of
such circumstances, refund any amounts inadvertently
intercepted to the responsible relative and proceed to
collect past-due support pursuant to the income
withholding provisions of the support statutes.

3) The Department shall provide the responsible relative with a notice prior
to submitting a past-due support amount for intercept, which advance
notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be submitted for intercept;

C) the right to contest the determination that past-due support is owed
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or the amount of past-due support by requesting:

i) a redetermination by the Department or, after such redetermination,

ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and

D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:

A) a hearing by the Department within 30 days from the date of mailing of the notice; or

B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.

6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
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7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

8) The Department shall notify:

A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;

B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;

C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and

D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

9) The Department shall:

A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and

B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection (c) only against the past-due
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support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) of this Section and shall promptly apply:

A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and

B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.

11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;

B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

d) Unemployment Insurance Benefits

1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.

2) The Department shall take the following action:

A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.

B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding
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in accordance with Section 160.75.

C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:

i) the amount of the income withholding order; or

ii) fifty percent of the Unemployment Insurance Benefit.

D) receive amounts deducted direct from DES.

E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

F) post each collection to the Department's payment record.

G) apply each collection to the current support obligation, then to past-due obligations.

H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.

3) The Department of Employment Security shall take the following action:

A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.

B) pay all amounts deducted direct to the Department.

e) Contempt of Court and Other Legal Proceedings

1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation,
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except as set forth in subsection (e)(2) of this Section.

2) Contempt proceedings shall not be used in the following instances:

A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:

   i) receiving public assistance;

   ii) mentally or physically disabled;

   iii) incarcerated;

   iv) out-of-the-country;

   iv) deceased; or

   vi) otherwise situated making such action unproductive.

B) other legal or administrative remedies are more appropriate under the circumstances.

3) Contempt and other legal proceedings shall be used to:

A) establish the amount of past-due support;

B) obtain a judgment for purposes of:

   i) imposition of a lien against real estate,

   ii) levy upon real estate and personal property, or

   iii) registration in another state;

C) secure an order for lump sum or periodic payment of the past-due support or judgment;

D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure
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payment of any amount due under the support order;

E) obtain full or partial payment of past due support through incarceration;

F) ascertain the responsible relative's source and amount of income or location and value of assets;

G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;

H) secure other enforcement relief; and

I) obtain any combination of the above.

4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support

1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court
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enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].

2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:

A) the past-due amount is at least $10,000; and

B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).

4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than $10,000 in excess of any statutory exemption.

Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support

1) Liens against real estate

A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:

i) the amount of past-due support is at least $10,000; and

ii) the responsible relative has an interest in real estate against
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which a lien may be claimed.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:

i) the name and address of the responsible relative;

ii) a legal description of the real estate to be levied;

iii) the amount of past-due support to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and

v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.

C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).

D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

F) The lien shall be enforced against the real estate in accordance
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with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than $10,000 in excess of any statutory exemption.

2) Liens against personal property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

i) the amount of past-due support is at least $1,000;

ii) the responsible relative has an interest in personal property against which a lien may be claimed; and

iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least $300.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or which may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:

i) the name and address of the responsible relative;

ii) a description of the account or personal property to be levied;

iii) the amount of past-due support to be satisfied by the levy;
IV) the fact that a lien is being claimed for past-due child support owed by the responsible relative;

IV) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and

VI) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:

I) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];

II) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;
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iii) state that the financial institution may charge the responsible relative’s account a fee of up to $50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and

iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy.

D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

i) the amount of assets in the responsible relative’s account;

ii) the amount of the fee to be deducted from the account;

iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;

iv) the name and address of any joint owners of the account; and

v) the amount of assets surrendered and remitted to the Department.

E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (g).

F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
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G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner’s written request for a hearing.

H) The Department, upon determining a joint owner’s share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner’s share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.

I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

h) Security, Bond or Other Guarantee of Payment

1) Except as provided in subsections (h)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].

2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is
subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies

1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be reported;

C) the date past-due support will be reported; and

D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a
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redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

   A) a request for:

      i) a redetermination, or

      ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

   B) payment in full of the amount of the past-due support stated in the:

      i) advance notice, or

      ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

j) High-Volume Automated Administrative Enforcement in Interstate Cases

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a
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request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:

A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.

5) The Department shall maintain records of:

A) The number of such requests for assistance received by the Department.

B) The number of cases for which the Department collected support in response to such a request and the actual amount(s) of such support collected.

k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State

1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state’s IV-D agency for administrative enforcement where the responsible relative has property in the other state.
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2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:

A) past-due support is owed for a child or for a child and the parent with whom the child is living;

B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;

C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and

D) the responsible relative is not deceased.

3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be submitted for collection;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and

D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

4) Factors for a satisfactory repayment plan will include, but are not limited to:

A) the amount of past-due support owed;
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B) the amount to be paid toward the past-due amount;

C) the amount of current child support obligations; and

D) the individual's ability to pay.

5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:

A) name;

B) Social Security Number;

C) IV-D identification number; and

D) the past-due support amount.

6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.

7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.

8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.

9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
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10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

11) The Department shall:

A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or

B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

1) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports

1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds $5,000:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be certified;
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C) the date past-due support will be certified; and

D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:

A) a request for:
   
   i) a redetermination, or
   
   ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:

   i) advance notice, or
   
   ii) notice of redetermination or hearing results.

6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

m) List of Responsible Relatives

1) Any list of responsible relatives owing past-due support to be disclosed
pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (m).

2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing $5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:

A) the name of the responsible relative;

B) the responsible relative’s last known address; and

C) the amount of past-due support as of a given date, expressed within a range (for example, $50,000 - $100,000), that has accumulated under the support order.

3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.

4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount as of a given date;

C) the earliest date by which past due support information will be published;

D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing no later than 10 days before the date of publication stated in the advance notice; and

E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of
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the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.

5) Factors for a satisfactory payment plan will include, but are not limited to:

A) the amount of past-due support owed;

B) the amount to be paid toward the past-due support;

C) the amount of the current support obligation(s); and

D) the responsible relative’s ability to pay.

6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.

7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:

A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or

B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection.

n) Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 27 Ill. Reg. 7842, effective May 1, 2003)
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1) Heading of the Part: Motor Fuel Tax
2) Code Citation: 86 Ill. Adm. Code 500
3) Section Numbers: Adopted Action:
   500.298 New Section
4) Statutory Authority: 35 ILCS 505/14; 20 ILCS 2505/2505-20
5) Effective Date of Amendment(s): April 21, 2003
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 Illinois Register:
   April 26, 2002, 26 Ill. Reg. 5893
10) Has JCAR issued a Statement of Objections to these Amendments? No
11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. At its meeting of September 10, 2002, the Joint Committee issued a recommendation that the rulemaking be further amended to add an exclusion from penalty imposition for trace amounts of dyed diesel fuel so that inadvertent residual amounts of dyed fuel contaminating otherwise un-dyed fuel would not precipitate sanctions. The Department has added subsection (g) to the rules to specify that the penalties imposed by subsections (b) and (e) of Section 500.298 will only be imposed when the special fuel contains the dye Solvent Red 164 in quantities greater than .1 part per million. The Joint Committee considered the Department’s response at its April 8, 2003 meeting, and indicated it was taking no further action. Other changes made were grammar and punctuation or technical.
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 amendment replace an emergency amendment currently in effect? No
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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment(s): This new regulation is promulgated in response to Public Acts 92-232, 92-30 and 91-173. Public Act 91-173 enacted the dyed diesel program, and created specific civil penalties applicable to persons found to have violated specific provisions of the dyed diesel program (including, but not limited to, persons found operating a licensed motor vehicle with dyed diesel fuel in the ordinary fuel tanks attached to the motor vehicle, or persons owning, operating or controlling dyed diesel storage tanks that are not marked as required by Section 4 of the Law). Public Act 92-232 further amended provisions governing civil penalties by adding specific civil penalties for the use of dyed diesel fuel by recreational-type watercraft on the waters of Illinois, and for licensed distributors or suppliers who sell or attempt to sell dyed diesel fuel for use by recreational-type watercraft on the waters of Illinois. These provisions were again amended by Public Act 92-30, which changed provisions stating that penalties were imposed when licensed motor vehicles were found with dyed diesel fuel within the fuel tanks to provisions stating that penalties would be imposed when motor vehicles required to be registered for highway purposes were found with dyed diesel fuel within the fuel tanks. This rulemaking explains the manner in which the Department will impose these penalties, including the manner in which first and second occurrence penalties will be determined. Numerous examples are provided for clarification. Public Act 92-30 also added specific hearing rights for persons assessed civil penalties, which are reflected in this rulemaking.

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

Jerilynn Gorden
Senior Counsel, Sales & Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (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 500
MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section
500.100 Definitions
500.101 Definition of Receiver (Repealed)
500.102 Definition of Loss (Repealed)

SUBPART B: MOTOR FUEL TAX

Section
500.200 Basis and Rate of the Motor Fuel Tax
500.201 Licensure
500.202 Basis and Rate of Tax Payable by Receivers
500.203 Monthly Returns
500.204 Report of Loss of Motor Fuel
500.205 Daily Gallonage Record
500.206 Special Fuel Sold or Used for Non-Highway Purposes
500.210 Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215 Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220 Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225 Other Vehicles (Repealed)
500.230 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235 Claims for Refund - Invoices
500.240 Sales of Special Fuel - Variation in Usage (Repealed)
500.245 Estimated Claims
500.250 Claimants Owning Motor Vehicles (Repealed)
500.255 Detailed Answers
500.260 Revocation of License, Etc. - Notice - Hearing
500.265 Distributors' and Suppliers' Claims for Credit or Refund
500.270 Receivers' Claims for Credit
500.275 Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
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500.280 Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285 Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.290 When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295 Cost of Collection - Determination (Repealed)
500.297 Protest Procedures for Certain Penalties
500.298 Civil Penalties for Dyed Diesel Fuel Violations

SUBPART C: MOTOR FUEL USE TAX

Section
500.300 Licensure
500.301 Special Motor Fuel Permits and Decals (Repealed)
500.302 Motor Carrier's Quarterly Report (Repealed)
500.305 Licenses and Decals
500.310 Display of License and Decals
500.315 Renewal of Decals and Licenses
500.320 Single Trip Permits
500.325 Licensure of Lessors and Lessees
500.330 Cancellation of License
500.335 Quarterly Payment and Reporting
500.340 Credits and Refunds
500.345 Records Requirements
500.350 Revocation
500.355 Protest Procedures
500.360 Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
500.400 General Information
500.405 Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW
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Section
500.500 Licenses and Permits Are Not Transferable
500.501 Blenders' Permits Are Not Transferable (Repealed)
500.505 Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section
500.600 Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].


SUBPART B: MOTOR FUEL TAX

Section 500.298 Civil Penalties for Dyed Diesel Fuel Violations

a) Definitions. For purposes of this Section, the following definitions apply:

"Inspection" means the periodic examination by duly authorized agents of the Department of places at which motor fuel is or may be produced or stored. Such places may include, but are not limited to, any terminal, any fuel storage facility
that is not a terminal, any retail fuel facility, and any State highway inspection
station, weigh station, agricultural inspection station, mobile station, or other
location designated by the Department to be used as a fuel inspection site.
Inspection of multiple locations may be conducted as part of one inspection.
When one inspection spans multiple sites, the inspection may occur over a period
of up to 15 days.

"Occurrence" means each event that results in a violation. As noted in
subsections (c) and (d), an occurrence may encompass a series of similar
violations occurring during an inspection (e.g., multiple violations of notice
requirements). However, a separate occurrence results each time a violation of
subsection (b) or (e) is found.

"Operator" means the person who has physical control over a motor vehicle. For
purposes of this Section, the driver of a vehicle is considered the operator of that
vehicle irrespective of any ownership or lease agreements. When a motor vehicle
is not under the control of a driver, the operator will be the person that has
physical control over that vehicle. For instance, if a truck parked on company
property is found to have dyed diesel fuel in its tanks, a penalty will be issued to
the company. If, however, the company has leased that truck to a lessee and the
lease remains in effect at the time an inspection occurs on the company property,
the lessee will be the operator to whom a penalty is issued. In the latter case, the
lessee is the party having physical control over the leased vehicle, until such time
as the lease has terminated.

b) From January 1, 2000 through June 30, 2001, if a licensed motor vehicle is found
to have dyed diesel fuel within the ordinary fuel tanks attached to the motor
vehicle, the operator shall pay a penalty of $2500 for the first occurrence and
$5000 for the second occurrence and each occurrence thereafter. On and after
July 1, 2001, these penalties will be imposed when a motor vehicle required to be
registered for highway purposes is found to have dyed diesel fuel within the
ordinary fuel tanks attached to the motor vehicle. In addition, on and after August
2, 2001, if a recreational-type watercraft is found to have dyed diesel fuel within
the ordinary fuel tanks attached to the watercraft, the operator shall pay a penalty
of $2500 for the first occurrence and $5000 for the second occurrence and each
occurrence thereafter. [35 ILCS 505/15] Each licensed motor vehicle or
recreational-type watercraft found to have dyed diesel fuel in its tanks constitutes a
separate occurrence.
EXAMPLE #1: A truck is inspected at a designated inspection site and dyed diesel fuel is found in the ordinary fuel tank of the truck (owned by the ABC Company). The truck driver tells Department agents that his boss, Mr. ABC, tells employees to fill ABC Company trucks with dyed diesel fuel. The truck driver tells the agents that there are other trucks located at the ABC Company with dyed diesel fuel in the ordinary fuel tanks attached to such trucks. Department agents then go to the ABC Company and conduct an inspection. Agents find 2 vehicles registered to the ABC Company with dyed diesel fuel in the ordinary fuel tanks of the vehicles.

In this example, there are 3 separate occurrences. The truck driver is assessed a $2500 first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The driver is the operator who had physical control over the truck when dyed diesel fuel was found in the tanks. The ABC Company is assessed a $2500 first occurrence penalty for the first licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary fuel tank attached to the motor vehicle. The company is also assessed a $2500 first occurrence penalty for the second licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary tank attached to the motor vehicle. The ABC Company is the person who has physical control over the trucks at the time of inspection.

EXAMPLE #2: Truck driver #1 was previously issued a $2500 first occurrence penalty when he was found operating an ABC Company truck with dyed diesel in its tanks. Truck driver #1 returns this truck to the ABC Company. Several months later, agents inspect the ABC Company. The same truck previously driven by truck driver #1 is found to have dyed diesel fuel in its tanks.

The ABC Company is issued a $2500 first occurrence penalty. The ABC Company is the person who has physical control over the truck at the time of inspection. Truck driver #2 subsequently is found operating the same truck with diesel in its tanks. Truck driver #2 is issued a $2500 first occurrence penalty. Truck driver #2 is the person who has physical control over the truck at the time of inspection. Company ABC acquires 5 new trucks a year later. During the course of an inspection, all 5 of the new trucks are found to have dyed diesel in their tanks. Company ABC is issued a $5000 second occurrence penalty for each of the 5 new trucks.
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EXAMPLE #3: The owner of XYZ Company is driving a truck that is inspected and found to have dyed diesel fuel in the ordinary fuel tank attached to the truck. Several hours later, a second truck owned by XYZ Company and driven by an employee is inspected. It, too, is found to have dyed diesel fuel in the ordinary tank attached to the truck.

In this example, there are 2 separate occurrences. The owner of Company XYZ driving the truck is assessed a $2500 first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck, and the employee of Company XYZ driving the second truck is assessed a $2500 first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The owner and employee are each persons who have physical control over the trucks, and as such, are operators subject to first occurrence penalties.

EXAMPLE #4: Robert Andrew takes his family water skiing on Fox Lake. The boat is stopped for a routine inspection and dyed diesel fuel is found in the boat's fuel tanks.

Mr. Andrew is assessed a $2500 first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the watercraft. Mr. Andrew's ski boat is a recreational-type watercraft required to use clear diesel fuel. Dyed diesel fuel may be placed in the tanks of commercial watercraft, however, without penalty. For example, tugboats or commercial fishing boats found to have dyed diesel fuel in their tanks will not be subject to the penalty imposed in this subsection (b).

c) Any person who owns, operates, or controls any container, storage tank, or facility used to store or distribute dyed diesel fuel without the notice required by Section 4f of the Motor Fuel Tax Law shall pay a penalty of $500 for the first occurrence and $1000 for the second occurrence and each occurrence thereafter. [35 ILCS 505/15] Section 4f requires that a legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only" appear on all containers, storage tanks, or facilities used to store or distribute dyed diesel fuel. For purposes of this penalty, a series of similar violations occurring during the course of one inspection constitutes a single occurrence.

EXAMPLE #1: A licensed motor fuel distributor has 5 bulk storage tanks of dyed diesel fuel. During an inspection, agents find that none of the 5 tanks are marked with the required dyed diesel fuel notice.
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In this example, the distributor is assessed a first occurrence penalty of $500 for all 5 storage tanks found without the required notice. This series of similar violations results in one first occurrence penalty.

EXAMPLE #2: In the course of an inspection of a licensed motor fuel distributor with multiple locations, a motor fuel distributor is found to have 5 unmarked tanks at the first location, 3 unmarked tanks at the second location, and one unmarked tank at the third location. For purposes of this penalty, the violations found at the first, second and third location are considered a single occurrence spanning multiple locations during one inspection. However, if a subsequent inspection revealed that his storage tanks did not contain the required notice, the distributor would be assessed a second occurrence penalty of $1000. These violations would be considered to have occurred during a separate inspection.

d) Any person who sells or transports dyed diesel fuel without the notice required by Section 4e shall pay a penalty of $500 for the first occurrence and $1000 for the second occurrence and each occurrence thereafter. [35 ILCS 505/15] A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty for Taxable Use" must appear on all bills of lading and invoices accompanying any sale of dyed diesel fuel [35 ILCS 505/4e].

EXAMPLE #1: A licensed motor fuel distributor is inspected at one of its 3 locations. Three dyed diesel fuel sales invoices are found without the required dyed diesel fuel notice. During the course of a week-long inspection, agents examine invoices at the other 2 bulk plants of this distributor. At the second location, no violations are found, and at the third location, none of the diesel fuel sales invoices contain the required dyed diesel fuel notice.

In the above example, the licensed motor fuel distributor is assessed a first occurrence penalty of $500 for all invoices found at the first and third locations without the required notice. The unmarked invoices found at these locations constitute a single occurrence spanning multiple locations during one inspection. However, if a subsequent inspection revealed that his invoices did not contain the required notice, the licensed motor fuel distributor would be assessed a second occurrence penalty of $1000.

e) Any licensed motor fuel distributor or licensed supplier who sells or attempts to
sell dyed diesel fuel for highway use shall pay a penalty of $5000 for the first occurrence and a $10,000 penalty for the second occurrence and each occurrence thereafter. In addition, on and after August 2, 2001, any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for use by recreational-type watercraft on the waters of this State shall pay a penalty of $5000 for the first occurrence and a $10,000 penalty for the second occurrence and each occurrence thereafter. [35 ILCS 505/15] Each separate sale or attempted sale made by a licensed motor fuel distributor or licensed supplier that is discovered as part of an investigation constitutes a separate first occurrence. Each sale or attempted sale made after the issuance of a citation for a violation of this subsection (e) constitutes a separate second or subsequent occurrence subject to a $10,000 penalty.

f) *Any person subject to the penalties described in this Section may protest the penalty by making a written request for a hearing within 60 days after notice of the penalty from the Department. If the hearing is not requested in writing within 60 days, the penalty assessment becomes final.* [35 ILCS 505/15]

g) The penalties imposed by subsections (b) and (e) of this Section will be imposed only when the special fuel contains the dye Solvent Red 164 in quantities greater than .1 part per million.

(Source: Added at 27 Ill. Reg. 7870, effective April 21, 2003)
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Business Logo Signing Program

2) Code Citation: 92 Ill. Adm. Code 542

3) Section Number: Adopted Action:
   542.400 Amend

4) Statutory Authority: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 49.30 of the Civil Administrative Code of Illinois [20 ILCS 2705/49.30], and authorized by Section 4-201.1 of the Illinois Highway Code [650 ILCS 5/4-201.1], Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01], and Section 49.30 of the Civil Administrative Code of Illinois [20 ILCS 2705/49.30].

5) Effective Date of Amendment: April 21, 2003

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 is on file in the Department’s Office of Chief Counsel and Division of Highways and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:
   February 7, 2003, 27 Ill. Reg. 2097

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No
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15) **Summary and Purpose of Amendment**: By this Notice, the Department is amending Section 542.400 to change a business criterion for food establishments. In order to bring the Part into conformance with changes in the federal Manual on Uniform Traffic Control Devices, the requirement that food establishments serve breakfast, lunch and dinner has been changed to require that food establishments serve at least two meals per day.

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

   Mr. Joseph S. Hill, Chief, Bureau of Operations
   Illinois Department of Transportation
   Division of Highways
   2300 South Dirksen Parkway, Room 009
   Springfield, Illinois 62764
   (217) 782-7231

The full text of the Adopted Amendment begins on the next page:
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NOTICE OF ADOPTED ADMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 542
BUSINESS LOGO SIGNING PROGRAM

Section
542.100 Introduction
542.200 Definitions
542.300 Criteria for Specific Service Panels
542.400 Criteria for Business Signs
542.500 Panel and Sign Design
542.600 Application, Fees, and Other Regulations

542.APPENDIX A District Boundary Map
542.ILLUSTRATION A Typical Signing for Single-Exit Interchanges (Repealed)
542.ILLUSTRATION B Typical Signing for Double-Exit Interchanges (Repealed)
542.ILLUSTRATION C Example Where an Existing Directional Sign Interferes with Normal Panel Spacing (Repealed)
542.ILLUSTRATION D Example Where all Panels Cannot be Erected Ahead of the First Advance Guide Sign (Repealed)
542.ILLUSTRATION E Example of Trailblazer Assembly (Repealed)
542.ILLUSTRATION F Examples of Interstate Panels for Single-Exit Interchanges (Repealed)
542.ILLUSTRATION G Examples of Interstate Panels for Double-Exit Interchanges (Repealed)
542.ILLUSTRATION H Example of Two Services on One Interstate Panel (Repealed)
542.ILLUSTRATION I Examples of Specific Service Panels Along a Single-Exit Interchange Exit Ramp (Repealed)
542.ILLUSTRATION J Examples of Specific Service Panels Along a Double-Exit Interchange Exit Ramp (Repealed)

AUTHORITY: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 49.30 of the Civil Administrative Code of Illinois [20 ILCS 2705/49.30], and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1], Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01], and Section 49.30 of the Civil Administrative Code of Illinois [20 ILCS 2705/49.30].
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Section 542.400 Criteria for Business Signs

a) For those sections of freeway routes where business information signs are to be erected, any business establishment meeting the following criteria will be considered for placement of a business sign on a specific service panel.

b) General Criteria

1) GAS: Must be open 7 days a week for a minimum of 12 hours a day. It shall have normal service station goods and services, which are telephone, gas, oil, water, and restroom. An attendant must be present at the business at all times the business is open.

2) FOOD: Must be open any 6 days a week and serve at least two meals per day, breakfast, lunch, and dinner, or remain open for a minimum of 10 hours each day. It shall be certified by the Illinois Department of Public Health or local health department and have a restroom and telephone.

3) LODGING: Must be open 7 days a week. It shall have a telephone, restroom and sleeping accommodations. At least half of the accommodations shall be available to the general public and shall not be restricted to members only.

4) CAMPING: Must be open 7 days a week for at least 6 months of the year. It shall have camping and parking accommodations, restroom, telephone, and drinking water. At least half of the accommodations shall be available to the general public and shall not be restricted to members only.

c) Distance to Business

1) In a nonurbanized area, a business providing gas, food, or lodging must be within three road miles from a freeway interchange, while a business providing camping must be within 20 road miles.
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2) In an urbanized area, a business providing gas, food, or lodging must be within one road mile from a freeway interchange, while a business providing camping must be within five road miles.

3) The distance to each business establishment will be measured as the travel distance between the end of the appropriate exit ramp and the business establishment. The distance to a business on a crossroad will be measured along the centerline of the crossroad from the end of the appropriate exit ramp to the center of the primary entrance to the business. Where the business is located along an intersecting road, the distance will be measured along the centerline of the crossroad to the centerline of the intersecting road and then measured along the centerline of the intersecting road to the center of the primary entrance to the business. Where an entrance serves more than one business, the driving distance using the proper marked driving aisles from the entrance to the parking space available for patrons nearest the business will be added to the distance measured along the crossroad or intersecting road. In the event the Department cannot determine which business establishment is closest to the appropriate exit ramp, priority for the available space will be determined by lottery, coin toss, or any other fair and impartial method determined by the Department. The affected businesses will be allowed to witness such action.

4) Signing will be allowed for a business establishment on each freeway from which it qualifies. If a business establishment meets the criteria at more than one interchange on any one freeway, signing will be allowed only from the interchange providing the most direct and best route in each direction from that freeway to the business establishment. In determining the most direct and best route, the Department will consider all relevant conditions including the directness of the route, congestion of the route, speed of travel, length of travel, and ease of locating the facility.

d) Business Signing Priorities

1) A specific service panel shall have a maximum of six business signs. Where there may be more businesses eligible for and desiring signing than the number of signs permitted on a specific service panel, those businesses nearest the exit ramp intersection with the crossroad will be given first priority for signing. Because each exit at an interchange is treated
separately, a business establishment may be eligible to sign for only one direction of travel along a freeway.

2) Those businesses that display their business signs on a freeway panel will be assured that the signs will not be removed because of a nearer business as long as they continue to meet the established criteria and continue to pay their annual fees.

3) Once businesses are selected for a particular panel, the eligible business closest to the interchange from which an application was received will have its sign placed on the available space closest to the top left of the panel, and the second closest business will be on the next available space horizontally. On panels for single-exit interchanges, after spaces on the top row are filled, signs will be placed along the next row or rows in the same manner. Signs will be arranged similarly for double-exit interchanges, except the business at the first exit will have signs on the top portion of the panels and businesses at the second exit will have signs at the bottom portion of the panels.

4) The Department will remove individual business signs within 15 calendar days after a business leaving the program for any reason and such empty space on the specific service panel will constitute public notice that such space is available for another qualifying business. When such removal of individual business signs causes space to become available on any specific service panel and where the panel had, up to that time, the maximum number of individual business signs allowed, the qualifying business closest to the interchange that submits a valid application, including the required application fee, within 45 calendar days after such removal, not counting the removal date, and that is open to the public on or before the end of the 45 day time period, will be allowed to display its business sign in the available space. If no qualifying business submits its application within the 45 day period, the first qualifying business that submits a valid application, including the required application fee, and that is open to the public at the time the application is submitted, will be allowed to display its business sign in the available space.

5) When a business closes due to remodeling, or due to an act of God, including, but not limited to, fire or flood, the business shall notify the Department in writing of the closure within 30 calendar days. Following
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closure, the business sign will be removed and stored by the Department up to a maximum of six months. If the business remains closed after six months, the space will be declared available. In any event, if the allowable closure period extends to the subsequent fiscal year, the annual rental fee for the business must be paid for that year or the space will be declared available. If the business does not notify the Department in writing within 30 calendar days after the closure, and the Department becomes aware of such closure, the closure will be considered permanent, the business will lose its signing priority and the space will be declared available. When a space is declared available, a new application, including the $100 application fee, must be submitted for inclusion in the program and its priority will be evaluated among all the other eligible businesses desiring signing at the interchange in question.

6) When the business service changes, such as a gas station changing to a food establishment, or when the business closes permanently, the business will lose its signing priority and the space will be declared available. If the business reopens, wishes to take part in this program and is still eligible for signing under this program, and if a space has been declared available, the business shall submit a new application, including the $100 application fee, and its priority will be evaluated among all the other eligible businesses desiring signing at the interchange in question.

e) Location of Business

1) Business on the Crossroad

Where a business establishment providing gas, food, lodging, or camping is on the crossroad, it will be signed on a freeway panel if it is visible to the motorists from the crossroad, or if a sign is on the business site advising motorists of the appropriate entrance to the establishment.

2) Business Not on the Crossroad

A) Where a business establishment providing gas, food, or lodging is not on the crossroad, it will be signed on a freeway panel if it is visible to the motorists from the crossroad, or if it is visible from a road intersecting the crossroad and has a trailblazer assembly placed on the crossroad advising motorists where to turn. The
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Department will place such trailblazer signs on state highway crossroads for the fee established in Section 542.600(b)(2). Where the crossroad is under local agency jurisdiction, trailblazer signs will not be required if legible signs with directional information are present advising motorists where to turn. If such signs are not present, a business needing such signing will be allowed to participate in the program only if the Department can arrange an agreement covering the erection and maintenance of such trailblazer signs with the local agency.

B) A campground not on the crossroad can be signed on a freeway panel regardless of the number of turns required if legible signs with directional information are present advising motorists where to turn. The Department will erect trailblazer signs along State-maintained highways for the fee established in Section 542.600(b)(2).

f) No business will be allowed more than one space on an individual specific service panel; however, a business could qualify for a business sign on more than one type of panel; e.g., both food and lodging.

(Source: Amended at 27 Ill. Reg. 7880, effective April 21, 2003)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY ADJUSTMENTS

1) **Heading of the Part:**

Postoperative Recovery Care Center Demonstration Program Code

2) **Code Citation:**

77 Ill. Adm. Code 210

3) **Section Numbers:**

Adopted Action:

210.2250 Amendment

4) **Statutory Authority:**

Alternative Health Care Delivery Act [210 ILCS 3]

5) **Effective date of emergency amendments:**

April 30, 2003

6) If these emergency amendments are to expire before the end of the 150 days period, please specify the date on which they are to expire:

7) **Date filed with the Index Department:**

April 21, 2003

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:**

Section 210.2250 implements the provisions of the Health Care Worker Background Check Act for postoperative recovery care center demonstration programs. The purpose of the Act is to protect the most frail and disabled citizens of the State from possible harm through a criminal background check of certain health care workers. Facilities are prohibited from hiring non-licensed direct care workers who have been convicted of the crimes listed in the Act, unless the individual obtains a waiver from the Department. The Department=s waiver review process, which is conducted in accordance with the criteria set forth in the Act and this Part, focuses on meeting the goal of protecting the most frail and disabled citizens of the State. It has recently come to the Department=s attention that more stringent criteria for waiver consideration are needed. Individuals will be required to meet minimum time frames after the conviction date or completion of their sentence before applying for a waiver. Waivers will not be granted to individuals who have been convicted of the following crimes unless the Director of Public Health approves the
waiver in writing: murder, homicide, manslaughter, kidnaping, aggravated kidnaping, aggravated battery, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, abuse and gross neglect of a long-term care facility resident, criminal abuse or neglect of an elderly or disabled person, financial exploitation of an elderly person or a person with a disability, indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography, armed robbery, aggravated vehicular hijacking, or aggravated robbery. The Department believes that implementing these revised waiver requirements immediately by emergency rulemaking will help to protect the health, safety and welfare of clients of health care facilities.

10) A Complete Description of the Subjects and Issues:

Section 210.2250 implements the Health Care Worker Background Check Act. The rules are being amended to provide additional criteria for consideration of waivers under the Act, including: Additional requirements that must be met by individuals who apply for a waiver; minimum time frames that must be met for waiver consideration; examples of other evidence that will be considered by the Department in granting waivers; and a list of crimes that will not be waived without the written approval of the Director of Public Health.

11) Are there any other amendments on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

13) Information and questions regarding these emergency amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois  62761
217/782-2043
e-mail:  rules@idph.state.II.us

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY ADMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 210
POSTSURGICAL RECOVERY CARE CENTER DEMONSTRATION PROGRAM CODE

Section
210.1000 Definitions
210.1050 Referenced Materials
210.1100 Demonstration Program Elements
210.1200 Application for and Issuance of a License to Operate a Postsurgical Recovery Care Center Model
210.1300 Obligations and Privileges of Postsurgical Recovery Care Center Models
210.1400 Inspections and Investigations
210.1500 Notice of Violation and Plan of Correction
210.1600 Adverse Licensure Action
210.1700 Admission Practices
210.1800 Approval of Protocols for the Admission of Postsurgical Patients
210.1900 Standards of Professional Practice
210.2000 Length of Stay
210.2100 Patient's Rights
210.2200 Personnel
210.2250 Health Care Worker Background Check

EMERGENCY
210.2300 Patient Care
210.2400 Infection Control
210.2500 Laboratory, Pharmacy and Radiological Services
210.2600 Records and Reports
210.2700 Transfer Agreement
210.2800 Food Service
210.2900 Physical Plant
210.3000 Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

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amended at 26 Ill. Reg. 11965, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7888, effective April 30, 2003 for a maximum of 150 days.

Section 210.2250 Health Care Worker Background Check

**EMERGENCY**

a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


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15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)
For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)
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g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the
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criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal
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records check instead of the items required by subsections (m)(1) and (2) above.
(Section 40(a-5) of the Health Care Worker Background Check Act)

o) Notwithstanding any other provision in this Section, an application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed, compliance with orders of protection); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department, acting through a waiver committee or through another process it implements, may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of
residents, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

Except as indicated in subsections (q) and (r) of this Section, the Director of the Department of Public Health is not required to approve these waivers in writing in order for them to be effective.

q) Notwithstanding any other provision in this Section, waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. A Disqualifying@ refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction - waiver application no earlier than one year after completion of the sentence resulting from the conviction or, if no sentence was so imposed, the conviction date;

2) Two to three disqualifying misdemeanor convictions - waiver application no earlier than three years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

3) More than three disqualifying misdemeanor convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

4) Single disqualifying felony convictions - waiver application no earlier than three years after completion of the sentence resulting from the conviction or, if no sentence was so imposed, the conviction date;
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5) Two to three disqualifying felony convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

6) More than three disqualifying felony convictions - waiver application no earlier than ten years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction.

r) Notwithstanding any other provisions in this Section, waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses unless the Director of Public Health approves the waiver in writing:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, or manslaughter (Sections 9-1, 9-2 and 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2 and 9-3]);

3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery (Section 12-4 of the Criminal Code 1961 [720 ILCS 5/12-4]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13 and 12-14 of the Criminal Code of 1961 [720 ILCS 5/12-13 and 12-14]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
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8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s)$p$ An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

t)$q$ A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

u)$r$ A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:
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1) certified court records;

2) written verification from the State=s Attorney=s office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the
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Department. *A fine of $500 shall be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 7888, effective April 30, 2003 for a maximum of 150 days)
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NOTICE OF EMERGENCY AMDENDMENTS

1) Heading of the Part: Community-Based Residential Rehabilitation Center Demonstration Program Code

2) Code Citation: 77 Ill. Adm. Code 220

3) Section Numbers: 
   Adopted Action:
   220.2800 Amendment

4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]

5) Effective date of emergency amendments: April 30, 2003

6) If these emergency amendments are to expire before the end of the 150 days period, please specify the date on which they are to expire:

7) Date filed with the Index Department: April 21, 2003

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:

Section 220.2800 implements the provisions of the Health Care Worker Background Check Act for community-based residential rehabilitation center demonstration programs. The purpose of the Act is to protect the most frail and disabled citizens of the State from possible harm through a criminal background check of certain health care workers. Facilities are prohibited from hiring non-licensed direct care workers who have been convicted of the crimes listed in the Act, unless the individual obtains a waiver from the Department. The Department=s waiver review process, which is conducted in accordance with the criteria set forth in the Act and this Part, focuses on meeting the goal of protecting the most frail and disabled citizens of the State. It has recently come to the Department=s attention that more stringent criteria for waiver consideration are needed. Individuals will be required to meet minimum time frames after the conviction date or completion of their sentence before applying for a waiver. Waivers will not be granted to individuals who have been convicted of the following crimes unless the Director of Public Health approves the waiver in writing: murder, homicide, manslaughter, kidnapping, aggravated kidnapping, aggravated battery, criminal sexual assault, aggravated
criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, abuse and gross neglect of a long-term care facility resident, criminal abuse or neglect of an elderly or disabled person, financial exploitation of an elderly person or a person with a disability, indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography, armed robbery, aggravated vehicular hijacking, or aggravated robbery. The Department believes that implementing these revised waiver requirements immediately by emergency rulemaking will help to protect the health, safety and welfare of clients of health care facilities.

10) A Complete Description of the Subjects and Issues:

Section 220.2800 implements the Health Care Worker Background Check Act. The rules are being amended to provide additional criteria for consideration of waivers under the Act, including: Additional requirements that must be met by individuals who apply for a waiver; minimum time frames that must be met for waiver consideration; examples of other evidence that will be considered by the Department in granting waivers; and a list of crimes that will not be waived without the written approval of the Director of Public Health.

11) Are there any other amendments on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

13) Information and questions regarding these emergency amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY ADMENDMENTS

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 220
COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER
DEMONSTRATION PROGRAM CODE

Section
220.1000 Definitions
220.1050 Referenced Materials
220.1100 Demonstration Program Elements
220.1200 Application for and Issuance of a License to Operate a Community-Based Residential Rehabilitation Center Model
220.1300 Obligations and Privileges of Community-Based Residential Rehabilitation Center Model
220.1400 Inspections and Investigations
220.1500 Notice of Violation and Plan of Correction
220.1600 Adverse Licensure Action
220.1700 Policies and Procedures
220.1800 Admission Practices
220.1900 Participant Assessment
220.2000 Individual Rehabilitation Plan
220.2100 Participant Rights
220.2200 Participant Care and Treatment Services
220.2300 Participant Record Requirements
220.2400 Residential Services
220.2500 Medication Administration
220.2600 Discharge and Follow-up Practices
220.2700 Personnel
220.2800 Health Care Worker Background Check

EMERGENCY
220.2900 Food Service
220.3000 Physical Plant
220.3100 Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3]

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11969, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7904, effective April 30, 2003 for a maximum of 150 days.

Section 220.2800 Health Care Worker Background Check

EMERGENCY

a) The Model shall not knowingly hire any individual in a position with duties involving direct care for participants if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]). The Model shall initiate background checks within six months after licensure of the Model for persons who were employed at the time of licensure.

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


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13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of
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15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal
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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The Model shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) The Model shall not hire, employ, or retain any individual in a position with duties involving direct care of participants if the Model becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) of this Section, as verified by court records, records from a state
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agency, or an FBI criminal history record check. This shall not be construed to mean that the Model has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Health Care Worker Background Check Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a Model who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a Model to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsection (a) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the Model shall establish a policy defining which employees provide direct care. In making this determination the Model shall consider the following:

1) The employee’s assigned job responsibilities as set forth in the employee’s job description;

2) Whether the employee is required to or has the opportunity to be alone with participants, with the exception of infrequent or unusual occasions;

3) Whether more than 50 percent of the employee’s responsibilities include physical contact with participants, for example to provide therapy or to draw blood.

f) When the Model makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that
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involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the Model must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The Model shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The Model may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (e) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the Model shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the health care employer, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsection (a) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has
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*a record of conviction of any of the criminal offenses enumerated in subsection (a) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*

5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsection (a) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.* (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) *A Model may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check.* (Section 30(g) of the Health Care Worker Background Check Act)

k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsection (a) of this Section may request that the Model or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

l) *A Model having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days of acquiring that knowledge. The Model may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received.* (Section 30(d) of the Health Care Worker Background Check Act)

m) *An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*

1) *A completed fingerprint-based UCIA criminal records check form* (Section 40(a) of the Health Care Worker Background Check Act) that the
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Department will forward to the Department of State Police; and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsection (m) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) Notwithstanding any other provision in this Section, an application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed, compliance with orders of protection); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department, acting through a waiver committee or through another process it implements, may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;
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8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to the applicant=s or employee=s participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant=s or employee=s participation in anger management or domestic violence prevention programs; the applicant=s or employee=s status on nurse aide registries in other states; the applicant=s or employee=s criminal history in other states; or the applicant=s or employee=s successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

Except as indicated in subsections (q) and (r) of this Section, the Director of the Department of Public Health is not required to approve these waivers in writing in order for them to be effective.

q) Notwithstanding any other provision in this Section, waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. ADisqualifying@ refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction - waiver application no earlier than one year after completion of the sentence resulting from the conviction or, if no sentence was imposed, the conviction date;

2) Two to three disqualifying misdemeanor convictions - waiver application no earlier than three years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

3) More than three disqualifying misdemeanor convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the
sentence resulting from the next most recent conviction;

4) Single disqualifying felony convictions - waiver application no earlier than three years after completion of the sentence resulting from the conviction or, if no sentence was imposed, the conviction date;

5) Two to three disqualifying felony convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

6) More than three disqualifying felony convictions - waiver application no earlier than ten years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction.

7) Notwithstanding any other provisions in this Section, waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses unless the Director of Public Health approves the waiver in writing:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, or manslaughter (Sections 9-1, 9-2 and 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2 and 9-3]);

3) Kidnapping or aggravated kidnapping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery (Section 12-4 of the Criminal Code 1961 [720 ILCS 5/12-4]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13 and 12-14 of the Criminal Code of 1961 [720 ILCS 5/12-13 and 12-14]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-
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1) 15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16];

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the Model may continue to employ the individual in a direct care position if the individual presents convincing evidence to the Model that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

A Model is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

A Model may retain the individual in a direct care position if the individual
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presents clear and convincing evidence to the Model that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but is not limited to:

1) Certified court records;

2) Written verification from the States Attorneys office that prosecuted the conviction at issue;

3) Written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) A signed affidavit from the individual concerning the validity of the report; or

5) Documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee
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after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

x) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

y) The Model shall retain on file for a period of 5 years records of criminal records requests for all employees. The Model shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

z) The Model shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 7904, effective April 30, 2003 for a maximum of 150 days)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part**: Alzheimer’s Disease Management Center Demonstration Program Code

2) **Code Citation**: 77 Ill. Adm. Code 225

3) **Section Numbers**: 

   - 225.1050 Amendment

4) **Statutory Authority**: Alternative Health Care Delivery Act [210 ILCS 3]

5) **Effective date of emergency amendments**: April 30, 2003

6) **If these emergency amendments are to expire before the end of the 150 days period, please specify the date on which they are to expire**:

7) **Date filed with the Index Department**: April 21, 2003

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**:

   Section 225.1050 implements the provisions of the Health Care Worker Background Check Act for Alzheimer’s disease management center demonstration programs. The purpose of the Act is to protect the most frail and disabled citizens of the State from possible harm through a criminal background check of certain health care workers. Facilities are prohibited from hiring non-licensed direct care workers who have been convicted of the crimes listed in the Act, unless the individual obtains a waiver from the Department. The Department=s waiver review process, which is conducted in accordance with the criteria set forth in the Act and this Part, focuses on meeting the goal of protecting the most frail and disabled citizens of the State. It has recently come to the Department=s attention that more stringent criteria for waiver consideration are needed. Individuals will be required to meet minimum time frames after the conviction date or completion of their sentence before applying for a waiver. Waivers will not be granted to individuals who have been convicted of the following crimes unless the Director of Public Health approves the waiver in writing: murder, homicide, manslaughter, kidnapping, aggravated kidnapping, aggravated battery, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, abuse
and gross neglect of a long-term care facility resident, criminal abuse or neglect of an elderly or disabled person, financial exploitation of an elderly person or a person with a disability, indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography, armed robbery, aggravated vehicular hijacking, or aggravated robbery. The Department believes that implementing these revised waiver requirements immediately by emergency rulemaking will help to protect the health, safety and welfare of clients of health care facilities.

10) A Complete Description of the Subjects and Issues:

Section 225.1050 implements the Health Care Worker Background Check Act. The rules are being amended to provide additional criteria for consideration of waivers under the Act, including: Additional requirements that must be met by individuals who apply for a waiver; minimum time frames that must be met for waiver consideration; examples of other evidence that will be considered by the Department in granting waivers; and a list of crimes that will not be waived without the written approval of the Director of Public Health.

11) Are there any other amendments on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

13) Information and questions regarding these emergency amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
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The full text of the Emergency Amendments begins on the next page:

TITLE 77: PUBLIC HEALTH
DEPARTMENT OF PUBLIC HEALTH
NOTICE OF EMERGENCY AMENDMENTS

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SUBCHAPTER c: LONG-TERM CARE FACILITIES

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DEMONSTRATION PROGRAM CODE

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Authority: Alternative Health Care Delivery Act [210 ILCS 3].

Source: Adopted at 26 Ill. Reg. 4712, effective March 31, 2002; emergency amendment at 27 Ill. Reg. 7920, effective April 30, 2003 for a maximum of 150 days.

SUBPART B: POLICIES

Section 225.1050 Health Care Worker Background Check

EMERGENCY

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
2) Murder, homicide, manslaughter or concealment of a homicidal death
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15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));


26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 5/5, 5.1, 5.2, 7, and 9]);
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b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Health Care Worker Background Check Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.
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4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee’s assigned job responsibilities as set forth in the employee’s job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee’s regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
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1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may
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request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) Notwithstanding any other provision in this Section, an application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed, compliance with orders of protection); and
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2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department, acting through a waiver committee or through another internal process it implements, may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to the applicant=s or employee=s participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant=s or employee=s participation in anger management or domestic violence prevention programs; the applicant=s or employee=s status on nurse aide registries in other states; the applicant=s or employee=s criminal history in other states; or the applicant=s or employee=s successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

Except as indicated in subsections (q) and (r) of this Section, the Director of the Department of Public Health is not required to approve these
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waivers in writing in order for them to be effective.

q) Notwithstanding any other provision in this Section, waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. A Disqualifying @ refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction - waiver application no earlier than one year after completion of the sentence resulting from the conviction or, if no sentence was imposed, the conviction date;

2) Two to three disqualifying misdemeanor convictions - waiver application no earlier than three years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

3) More than three disqualifying misdemeanor convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

4) Single disqualifying felony convictions - waiver application no earlier than three years after completion of the sentence resulting from the conviction or, if no sentence was imposed, the conviction date;

5) Two to three disqualifying felony convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

6) More than three disqualifying felony convictions - waiver application no earlier than ten years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction.

r) Notwithstanding any other provisions in this Section, waivers will not be granted
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to individuals who have been convicted of committing or attempting to commit one or more of the following offenses unless the Director of Public Health approves the waiver in writing:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, or manslaughter (Sections 9-1, 9-2 and 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2 and 9-3]);

3) Kidnapping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery (Section 12-4 of the Criminal Code 1961 [720 ILCS 5/12-4]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13 and 12-14 of the Criminal Code of 1961 [720 ILCS 5/12-13 and 12-14]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
12)  **Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).**

s)p)  *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)*

u)q)  *A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)*

u)r)  *A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:*

1)  certified court records;

2)  written verification from the State=s Attorney=s office that prosecuted the conviction at issue;

3)  written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4)  a signed affidavit from the individual concerning the validity of the report; or

5)  documentation from a local law enforcement agency that the individual
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was not convicted of a disqualifying crime.

v) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

w) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

x) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

y) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 7920, effective April 30, 2003 for a maximum of 150 days)
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Children’s Respite Care Center Demonstration Program Code

2) Code Citation:

77 Ill. Adm. Code 260

3) Section Numbers:  

Adopted Action:

260.1750  

Amendment

4) Statutory Authority:  Alternative Health Care Delivery Act [210 ILCS 3]

5) Effective date of emergency amendments:  April 30, 2003

6) If these emergency amendments are to expire before the end of the 150 days period, please specify the date on which they are to expire:

7) Date filed with the Index Department:  April 21, 2003

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:

Section 260.1750 implements the provisions of the Health Care Worker Background Check Act for children’s respite care demonstration programs. The purpose of the Act is to protect the most frail and disabled citizens of the State from possible harm through a criminal background check of certain health care workers. Facilities are prohibited from hiring non-licensed direct care workers who have been convicted of the crimes listed in the Act, unless the individual obtains a waiver from the Department. The Department’s waiver review process, which is conducted in accordance with the criteria set forth in the Act and this Part, focuses on meeting the goal of protecting the most frail and disabled citizens of the State. It has recently come to the Department’s attention that more stringent criteria for waiver consideration are needed. Individuals will required to meet minimum time frames after the conviction date or completion of their sentence before applying for a waiver. Waivers will not be granted to individuals who have been convicted of the following crimes unless the Director of Public Health approves the
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waiver in writing: murder, homicide, manslaughter, kidnaping, aggravated kidnaping, aggravated battery, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, abuse and gross neglect of a long-term care facility resident, criminal abuse or neglect of an elderly or disabled person, financial exploitation of an elderly person or a person with a disability, indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography, armed robbery, aggravated vehicular hijacking, or aggravated robbery. The Department believes that implementing these revised waiver requirements immediately by emergency rulemaking will help to protect the health, safety and welfare of clients of health care facilities.

10) A Complete Description of the Subjects and Issues:

Section 260.1750 implements the Health Care Worker Background Check Act. The rules are being amended to provide additional criteria for consideration of waivers under the Act, including: Additional requirements that must be met by individuals who apply for a waiver; minimum time frames that must be met for waiver consideration; examples of "other evidence" that will be considered by the Department in granting waivers; and a list of crimes that will not be waived without the written approval of the Director of Public Health.

11) Are there any other amendments on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].

13) Information and questions regarding these emergency amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois  62761
217/782-2043
e-mail: rules@idph.state.il.us

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

TITLE 77: PUBLIC HEALTH
Section 260.1750 Health Care Worker Background Check

EMERGENCY

a) The facility shall not knowingly hire any individual in a position with duties
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involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]).

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7]) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-
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4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b);


15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));


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1991, ch. 23, par. 2354));


26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) The facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a state agency, or an FBI criminal history record check. This shall not be construed to mean that the facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a Model who has received a bona fide conditional offer of employment.
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2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsection (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:

1) The employee=s assigned job responsibilities as set forth in the employee=s job description;

2) Whether the employee is required to or has the opportunity to be alone with participants, with the exception of infrequent or unusual occasions; and

3) Whether the employee=s regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the Model must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the health care employer, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsection (a) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsection (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
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j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days of acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) that the Department will forward to the Department of State Police; and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) Notwithstanding any other provision in this Section, an application for a waiver shall be denied unless the applicant meets the following requirements and submits
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documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed, compliance with orders of protection); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

The Department, acting through a waiver committee or through another internal process it implements, may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant=s or employee=s participation in a drug/alcohol rehabilitation program and continued involvement in recovery: the applicant=s or employee=s participation in anger management or domestic violence prevention programs; the applicant=s or employee=s status on nurse aide registries in
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other states; the applicant=s or employee=s criminal history in other
states; or the applicant=s or employee=s successful completion of all
outstanding obligations or responsibilities imposed by or to the court.
(Section 40(b) of the Health Care Worker Background Check Act)

Except as indicated in subsections (q) and (r) of this Section, the Director
of the Department of Public Health is not required to approve these
waivers in writing in order for them to be effective.

q) Notwithstanding any other provision in this Section, waivers will not be granted
to individuals who have not met the following time frames unless the Director of
Public Health approves the waiver in writing. ADisqualifying@ refers to offenses
listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction - waiver application no
earlier than one year after completion of the sentence resulting from the
conviction or, if no sentence was so imposed, the conviction date;

2) Two to three disqualifying misdemeanor convictions - waiver application
no earlier than three years after completion of the sentence resulting from
the most recent conviction or, if no sentence was so imposed, the later of
the most recent conviction date or completion of the sentence resulting
from the next most recent conviction;

3) More than three disqualifying misdemeanor convictions - waiver
application no earlier than five years after completion of the sentence
resulting from the most recent conviction or, if no sentence was so
imposed, the later of the most recent conviction date or completion of the
sentence resulting from the next most recent conviction;

4) Single disqualifying felony convictions - waiver application no earlier
than three years after completion of the sentence resulting from the
conviction or, if no sentence was so imposed, the conviction date;

5) Two to three disqualifying felony convictions - waiver application no
earlier than five years after completion of the sentence resulting from the
most recent conviction or, if no sentence was so imposed, the later of the
most recent conviction date or completion of the sentence resulting from
the next most recent conviction;
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6) More than three disqualifying felony convictions - waiver application no earlier than ten years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction.

r) Notwithstanding any other provisions in this Section, waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses unless the Director of Public Health approves the waiver in writing:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, or manslaughter (Sections 9-1, 9-2 and 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2 and 9-3]);

3) Kidnapping or aggravated kidnapping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery (Section 12-4 of the Criminal Code 1961 [720 ILCS 5/12-4]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13 and 12-14 of the Criminal Code of 1961 [720 ILCS 5/12-13 and 12-14]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability
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11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the Model may continue to employ the individual in a direct care position if the individual presents convincing evidence to the Model that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

t) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

u) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but is not limited to:

1) certified court records;

2) written verification from the State=s Attorney=s office that prosecuted the conviction at issue;
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3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

The facility must send a copy of the results of the UClA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The Model shall retain the results of the UClA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

The facility shall maintain a copy of the employee's criminal history
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record check
results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 7937, effective April 30, 2003 for a maximum of 150 days)

1) Heading of the Part: Community Living Facilities Code
2) Code Citation: 77 Ill. Adm. Code 370

3) Section Numbers: Adopted Action:

370.715 Amendment

4) Statutory Authority:

Community Living Facilities Act
[210 ILCS 35]

5) Effective date of emergency amendments: April 30, 2003

6) If these emergency amendments are to expire before the end of the 150 days period, please specify the date on which they are to expire:

7) Date filed with the Index Department: April 21, 2003

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:

Section 370.715 implements the provisions of the Health Care Worker Background Check Act for community living facilities. The purpose of the Act is to protect the most frail and disabled citizens of the State from possible harm through a criminal background check of certain health care workers. Facilities are prohibited from hiring non-licensed direct care workers who have been convicted of the crimes listed in the Act, unless the individual obtains a waiver from the Department. The Department=s waiver review process, which is conducted in accordance with the criteria set forth in the Act and this Part, focuses on meeting the goal of protecting the most frail and disabled citizens of the State. It has recently come to the Department=s attention that more stringent criteria for waiver consideration are needed. Individuals will be required to meet minimum time frames after the conviction date or completion of their sentence before applying for a waiver. Waivers will not be granted to individuals who have been convicted of the following crimes unless the director of Public Health approves the waiver in writing: murder, homicide, manslaughter, kidnapping, aggravated kidnapping, aggravated battery, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse,
aggravated criminal sexual abuse, abuse and gross neglect of a long-term care facility resident, criminal abuse or neglect of an elderly or disabled person, or financial exploitation of an elderly person or a person with a disability, indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography, armed robbery, aggravated vehicular hijacking or aggravated robbery. The Department believes that implementing these revised waiver requirements immediately by emergency rulemaking will help to protect the health, safety and welfare of residents of health care facilities.

10) A Complete Description of the Subjects and Issues:

Section 370.715 implements the Health Care Worker Background Check Act. The rules are being amended to provide additional criteria for consideration of waivers under the Act, including: Additional requirements that must be met by individuals who apply for a waiver; minimum time frames that must be met for waiver consideration; examples of other evidence that will be considered by the Department in granting waivers; and a list of crimes that will not be waived without the written approval of the Director of Public Health.

11) Are there any other amendments on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not create or expand a State Mandate.

13) Information and questions regarding these emergency amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois  62761
217/782-2043
e-mail: rules@idph.state.il.us

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

TITLE 77: PUBLIC HEALTH
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CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 370
COMMUNITY LIVING FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
370.110 General Requirements
370.120 Application for License
370.130 Licensee
370.140 Issuance of an Initial License for a New Facility
370.150 Issuance of an Initial License Due to a Change of Ownership
370.160 Issuance of a Renewal License
370.165 Alzheimer’s Special Care Disclosure
370.170 Denial or Revocation
370.180 Experimental Program Conflicting with Requirements
370.190 Inspections
370.200 Information to Be Made Available to the Public By the Licensee
370.210 Ownership Disclosure
370.220 Variances
370.230 Alcoholism Treatment Programs in Community Living Facilities
370.240 Definitions

SUBPART B: ADMINISTRATION

Section
370.400 Administration

SUBPART C: POLICIES

Section
370.510 Social and Vocational Training Program Policies
370.520 Admission and Discharge Policies
370.530 Agreement Between Resident and Facility
370.540 General Policies
370.550 Personnel Policies

SUBPART D: PERSONNEL
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Section
370.710 Personnel
370.715 Health Care Worker Background Check
370.720 Personnel Policies

SUBPART E: HEALTH MAINTENANCE SERVICES

Section
370.810 Medical Care Policies
370.820 Communicable Disease Policies
370.830 Behavior Emergencies
370.840 Medication Policies

SUBPART F: PROGRAM SERVICES

Section
370.1010 Program Evaluation
370.1020 Program and Services

SUBPART G: RECORDS

Section
370.1210 General
370.1220 Other Records
370.1230 Confidentiality

SUBPART H: FOOD SERVICE

Section
370.1410 Food Service
370.1420 Adequacy of Diet
370.1430 Therapeutic Diets
370.1440 Scheduling of Meals
370.1450 Food Preparation and Service
370.1460 Food Handling Sanitation
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SUBPART I: MAINTENANCE, HOUSEKEEPING AND LAUNDRY
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Section
370.1610 Maintenance
370.1620 Housekeeping
370.1630 Laundry Services

SUBPART J: FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
370.1810 Furnishings
370.1820 Equipment and Supplies

SUBPART K: WATER SUPPLY AND SEWAGE DISPOSAL

Section
370.2010 Codes
370.2020 Water Supply
370.2030 Sewage Disposal
370.2040 Plumbing

SUBPART L: DESIGN AND CONSTRUCTION STANDARDS FOR NEW COMMUNITY LIVING FACILITIES

Section
370.2210 Applicability of Standards
370.2220 Codes and Standards
370.2230 Preparation of Drawings and Specifications
370.2240 Site
370.2250 Administration
370.2260 Bedrooms
370.2270 Nurses' Station
370.2280 Bath and Toilet Rooms
370.2290 Living, Dining Room, and Activity Room(s)
370.2300 Kitchen
370.2310 Laundry Room
370.2320 Housekeeping and Storage
370.2330 Building General
370.2340 Exit Facilities and Subdivision of Floor Areas
370.2350 Stairways and Vertical Openings
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370.2360 Hazardous Areas
370.2370 Structural
370.2380 Mechanical Systems
370.2390 Plumbing Systems
370.2400 Electrical Systems
370.2410 Fire Alarm and Detection System
370.2420 Emergency Electrical System
370.2430 Fire Protection

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING COMMUNITY LIVING FACILITIES

Section
370.2610 Applicability of Standards
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370.2630 Preparation of Drawings and Specifications
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370.2650 Administration and Public Areas
370.2660 Bedrooms
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370.2700 Kitchen
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370.2720 Housekeeping and Storage
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SUBPART N: RESIDENT'S RIGHTS

Section
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370.3010 General
370.3020 Medical and Personal Care Program
370.3030 Restraints
370.3040 Abuse and Neglect
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370.3080 Transfer and/or Discharge
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370.3110 Facility Implementation

APPENDIX A Program Standards
APPENDIX B Sanitizing Solutions

AUTHORITY: Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].


SUBPART D: PERSONNEL

Section 370.715 Health Care Worker Background Check

EMERGENCY

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and
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7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720...
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15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3]
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));


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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee=s assigned job responsibilities as set forth in the employee=s job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee=s responsibilities include physical contact with residents for example to provide therapy or to draw blood.

f) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed
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by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

i) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history
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record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days of acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above.

o) Notwithstanding any other provision in this Section, an application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed, compliance with orders of
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2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

The Department, acting through a waiver committee or through another internal process it implements, may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;
2) The circumstances surrounding the crime;
3) The length of time since the conviction;
4) The applicant's or employee's criminal history since the conviction;
5) The applicant's or employee's work history;
6) The applicant's or employees current employment references;
7) The applicant's or employee's character references;
8) Nurse Aide Registry records; and
9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

Except as indicated in subsections (q) and (r) of this Section, the Director of the
Department of Public Health is not required to approve these waivers in writing in order for them to be effective.

q) Notwithstanding any other provision in this Section, waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. A Disqualifying @ refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction - waiver application no earlier than one year after completion of the sentence resulting from the conviction or, if no sentence was so imposed, the conviction date;

2) Two to three disqualifying misdemeanor convictions - waiver application no earlier than three years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

3) More than three disqualifying misdemeanor convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

4) Single disqualifying felony convictions - waiver application no earlier than three years after completion of the sentence resulting from the conviction or, if no sentence was so imposed, the conviction date;

5) Two to three disqualifying felony convictions - waiver application no earlier than five years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction;

6) More than three disqualifying felony convictions - waiver application no earlier than ten years after completion of the sentence resulting from the most recent conviction or, if no sentence was so imposed, the later of the most recent conviction date or completion of the sentence resulting from the next most recent conviction.
Notwithstanding any other provisions in this Section, waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses unless the Director of Public Health approves the waiver in writing:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, or manslaughter (Sections 9-1, 9-2 and 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2 and 9-3]);

3) Kidnapping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery (Section 12-4 of the Criminal Code 1961 [720 ILCS 5/12-4]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13 and 12-14 of the Criminal Code of 1961 [720 ILCS 5/12-13 and 12-14]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);

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11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s)p An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the result of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

t)q A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

u)r A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State’s Attorney’s office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report.

4) a signed affidavit from the individual concerning the validity of the report:
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or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

The facility shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these
The facility shall maintain a copy of the employer's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 7953, effective April 30, 2003 for a maximum of 150 days)
The following second notices were received by the Joint Committee on Administrative Rules during the period of April 15, 2003 through April 21, 2003 and have been scheduled for review by the Committee at its May 13, 2003 meeting in Springfield. 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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a) Part(s) (Heading and Code Citation): Prequalification and Bidder Responsibility
44 Ill. Adm. Code 950

1) Rulemaking: Amendment

A) Description: General updates and clarification.


C) Scheduled meeting/hearing dates: None at present

D) Date agency anticipates First Notice: October 1, 2003

E) Affect on small business, small municipalities or not for profit corporations: May affect small construction businesses.

F) Agency contact person for information:
Claire Gibson, Deputy Chief Counsel
401 S. Spring Street, 3rd Floor, Springfield, Illinois 62706
(217) 782-2865

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Selection of Architects/Engineers (A/E)
44 Ill. Adm. Code 1000

1) Rulemaking: Amendment

A) Description: General updates and clarification.


C) Scheduled meeting/hearing dates: None at present

D) Date agency anticipates First Notice: October 1, 2003
E) Affect on small business, small municipalities or not for profit corporations:  
May affect small construction business.

F) Agency contact person for information:  
Claire Gibson, Deputy Chief Counsel  
401 S. Spring Street, 3rd Floor, Springfield, Illinois 62706  
(217) 782-2865

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Board Action, 71 Ill. Adm. Code 10

1) Rulemaking: Amendment

A) Description: General update.

B) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].

C) Scheduled meeting/hearing dates: None at present

D) Date agency anticipates First Notice: October 1, 2003

E) Affect on small business, small municipalities or not for profit corporations: None.

F) Agency contact person for information:  
Claire Gibson, Deputy Chief Counsel  
401 S. Spring Street, 3rd Floor, Springfield, Illinois 62706  
(217) 782-2865

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Hearing Procedures, 71 Ill. Adm. Code 100

1) Rulemaking: Amendment

A) Description: General update.
CAPITAL DEVELOPMENT BOARD

JULY 2003 REGULATORY AGENDA


C) Scheduled meeting/hearing dates: None at present

D) Date agency anticipates First Notice: October 1, 2003

E) Affect on small business, small municipalities or not for profit corporations: May affect any small business that requests a hearing with CDB.

F) Agency contact person for information:
Claire Gibson, Deputy Chief Counsel
401 S. Spring Street, 3rd Floor, Springfield, Illinois 62706
(217) 782-2865

G) Related rulemakings and other pertinent information: None
1. **Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:**

   **Name of Act:** Illinois Department of Revenue Sunshine Act  
   **Citation:** 20 ILCS 2515/1

2. **Summary of information:**

   Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2003. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   - Bingo  
   - Computer Software  
   - Construction Contractors  
   - Delivery Charges  
   - Enterprise Zones  
   - Exempt Organizations  
   - Food  
   - Food, Drugs & Medical Appliances  
   - Gas Revenue Tax  
   - Local Taxes  
   - Manufacturer's Purchase Credit  
   - Manufacturing Machinery & Equipment  
   - Medical Appliances  
   - Miscellaneous  
   - Motor Vehicles  
   - Nexus  
   - Pollution Control Facilities  
   - Products of Photoprocessing
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Graphic Arts Returns
Gross Receipts Sale at Retail
Interstate Commerce Sale for Resale
Leasing Sale of Service
Service Occupation Tax
Telecommunications Excise Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.00.

3. Name and address of person to contact concerning this information:

   Marie Keeney
   Legal Services Office
   101 West Jefferson Street
   Springfield, Illinois 62794
   Telephone: (217) 782-2844
CAPITAL DEVELOPMENT BOARD

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BINGO

ST 03-0043-GIL  03/24/2003  A bond is no longer required in order to obtain a Bingo regular license. Information about regular licenses is set forth at 86 Ill. Adm. Code 430.110. (This is a GIL.)

COMPUTER SOFTWARE

ST 03-0017-GIL  02/04/2003 If transactions for the licensing of computer software meet all of the criteria provided in subsection (a)(1) of Section 130.1935, neither the transfer of the software or the subsequent software updates will be subject to Retailers’ Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

CONSTRUCTION CONTRACTORS

ST 03-0001-GIL  01/02/2003  In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 03-0004-GIL  01/06/2003  In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 03-0021-GIL  02/05/2003 Under Illinois law, a person who takes tangible personal property off the market and converts it into real estate is deemed a construction contractor and is the legal end-user of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL.)

ST 03-0030-GIL  02/14/2003  This letter discusses the tax liability of construction contractors. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

DELIVERY CHARGES

ST 03-0018-GIL  02/05/2003  As a technical proposition, handling charges represent a retailer’s cost of doing business, and are consequently always included in gross charges subject to tax. See 86 Ill. Adm. Code 130.410. (This is a GIL.)
ENTERPRISE ZONES

ST 03-0003-PLR 01/17/2003 A “qualified sale” is a sale of building materials that will be incorporated into real estate as part of a project for which a Certificate of Eligibility for Sales Tax Exemption has been issued. 35 ILCS 120/5k. (This is a PLR.)

ST 03-0004-PLR 01/17/2003 A “qualified sale” is a sale of building materials that will be incorporated into real estate as part of a project for which a Certificate of Eligibility for Sales Tax Exemption has been issued. 35 ILCS 120/5k. (This is a PLR.)

ST 03-0014-GIL 02/04/2003 This letter discusses the new provisions of P.A. 92-0779 with regard to sales of building materials for incorporation into real estate located in Illinois enterprise zones. See 35 ILCS 120/5k. (This is a GIL.)

EXEMPT ORGANIZATIONS

ST 03-0002-PLR 01/14/2003 A hospital that qualifies as a charitable institution is not taxable when selling drugs to anyone because this is for the relief of the sick and so is “primarily for the purpose of” such hospitals. See 86 Ill. Adm. Code 130.2005(b)(1)(B). (This is a PLR.)

ST 03-0020-GIL 02/05/2003 Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See 86 Ill. Adm. Code 130.2007. (This is a GIL.)

FOOD

ST 03-0040-GIL 03/07/2003 “Food” is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES
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ST 03-0029-GIL 02/14/2003 Products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 03-0034-GIL 02/20/2003 The Department’s complete rules, regulations and rulings for sales tax are voluminous and can be found on our website at www.iltax.com. (This is a GIL.)

ST 03-0036-GIL 03/03/2003 Products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 03-0047-GIL 03/28/2003 This letter discusses sales tax issues related to the sale of skin care products by a dermatologist. Skin care products generally do not qualify for the 1% rate of tax as medicine unless they purport on the label to have medicinal qualities. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

GAS REVENUE TAX

ST 03-0044-GIL 03/25/2003 Customers that had acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995 are exempt from Gas Revenue Tax. See 86 Ill. Adm. Code 470.171. (This is a GIL.)

GRAPHIC ARTS

ST 03-0015-GIL 02/04/2003 Under the graphic arts machinery and equipment exemption, Retailers’ Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325. (This is a GIL.)

GROSS RECEIPTS

ST 03-0003-GIL 01/06/2003 When the legal incidence of a tax is on the consumer, it is not considered to be part of the “selling price” of the tangible personal property for the purpose of calculating Retailers’ Occupation Tax. See 86 Ill. Adm. Code 130.445. (This is a GIL.)

ST 03-0019-GIL 02/05/2003 When an item of tangible personal property is sold at retail
and includes a core charge, the full retail selling price of the item, including the core charge, is subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

ST 03-0039-GIL 03/06/2003 Gross receipts mean all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. (This is a GIL.)

INTERSTATE COMMERCE

ST 03-0050-GIL 03/31/2003 Retailers' Occupation Tax does not apply where sellers are required to ship goods by carrier or by mail, according to the terms of agreements with purchasers, and the seller delivers the goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. 86 Ill. Adm. Code 130.605. (This is a GIL.)

LEASING

ST 03-0011-GIL 01/13/2003 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased and owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 03-0046-GIL 03/28/2003 If lessors are guaranteed at the time of the lease that the leased property will be sold, this transaction is considered to be a conditional sale at the outset of the transaction, thus making all receipts subject to Retailers’ Occupation Tax. See 35 ILCS 120/1 et seq. (This is a GIL.)

LOCAL TAXES

ST 03-0005-PLR 01/17/2003 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a PLR).

ST 03-0005-GIL 01/06/2003 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that
CAPITAL DEVELOPMENT BOARD

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tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

ST 03-0006-PLR 03/07/2003 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that jurisdiction’s tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a PLR.)

ST 03-0007-PLR 03/11/2003 The imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MANUFACTURER’S PURCHASE CREDIT

ST 03-0008-PLR 03/12/2003 This letter describes how the base for determining the amount of MPC earned on the purchase of special order molds and dies is 50% of the entire service billing if no separate selling price is stated for the molds and dies. (This is a PLR.)

ST 03-0009-GIL 01/10/2003 Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility (or manufacturing facility) will qualify as production related tangible personal property. See 86 Ill. Adm. Code 130.331. (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 03-0001-PLR 01/13/2003 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a PLR.)

ST 03-0024-GIL 02/10/2003 Under the Retailers’ Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

MEDICAL APPLIANCES
ST 03-0023-GIL 02/06/2003 All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided. Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

MISCELLANEOUS

ST 03-0012-GIL 01/14/2003 This letter answers a survey regarding Braille equipment and computer devices. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

ST 03-0033-GIL 02/14/2003 This letter discusses the sales tax liability of a group that provides a free service and issues a card to its customers. See 35 ILCS 120/1 et seq. (This is a GIL.)

ST 03-0037-GIL 03/03/2003 If no tangible personal property is transferred to customers, then no Illinois Retailers' Occupation Tax, Use Tax, Service Occupation Tax Act, or Service Use Tax liability would be incurred on the sales to those customers. See 86 Ill. Adm. Code 130.301. (This is a GIL.)

MOTOR VEHICLES

ST 03-0010-GIL 01/13/2003 The sale of a vehicle that has previously been modified to make it usable by a disabled person is subject to Retailers' Occupation Tax liability on the entire selling price of the vehicle at the general merchandise rate (6.25% plus any applicable local tax). See 86 Ill. Adm. Code 130.310. (This is a GIL.)

NEXUS

ST 03-0016-GIL 02/04/2003 In the context of a General Information Letter, the Department is unable to make nexus determinations because the amount of information required to make that determination is often best gathered by an auditor. See 86 Ill. Adm. Code 150.201. (This is a GIL.)

ST 03-0022-GIL 02/05/2003 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)
ILLINOIS REGISTER

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ST 03-0028-GIL  02/14/2003  A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 03-0031-GIL  02/14/2003  A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 03-0032-GIL  02/14/2003  The Board of Appeals administers a voluntary disclosure program that can provide for limited liabilities for participants who come forward and disclose their liabilities. See 86 Ill. Adm. Code 210.126 (This is a GIL.)

POLLUTION CONTROL FACILITIES

ST 03-0027-GIL  02/14/2003  No items qualify for the Pollution Control Facilities exemption in and of themselves. No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules. (This is a GIL.)

PRODUCTS OF PHOTOPROCESSING

ST 03-0013-GIL  01/28/2003  In transactions in which products of photoprocessing are sold in conjunction with other services, if a charge for the photoprocessing component is not separately stated, tax is imposed on 50% of the entire selling price unless the sale is made by a professional photographer, in which case tax is imposed on 10% of the entire selling price. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

RETURNS

ST 03-0006-GIL  01/07/2003  Agency agreements authorize wholesalers whose products are sold by numerous distributors in Illinois to assume responsibility for reporting and paying tax on behalf of such distributors. See 86 Ill. Adm. Code 130.550. (This is a GIL.)
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ST 03-0008-GIL 01/08/2003  This letter discusses who owes the sales tax when a lessee operates a business upon property owned by the lessor. See 86 Ill. Adm. Code 130.101, 130.1305, and 130.1310 concerning Leased Portions of Lessor's Business Space. (This is a GIL.)

SALE AT RETAIL

ST 03-0007-GIL 01/07/2003  A retailer’s costs of doing business are not deductible from his gross receipts. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

ST 03-0025-GIL 02/11/2003  If a veterinarian sells tangible personal property that is available through retail outlets, those sales will be subject to Retailers' Occupation Tax liability even though the product may be prescribed by the veterinarian. See 86 Ill. Adm. Code 130.2165. (This is a GIL.)

ST 03-0026-GIL 02/14/2003  The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2. (This is a GIL.)

ST 03-0035-GIL 02/21/2003  This letter discusses the taxation of satellite TV equipment provided to customers who sign up for satellite TV service. See 86 Ill. Adm. Code 130.401. (This is a GIL.)

ST 03-0045-GIL 03/28/2003  The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. There are currently no Illinois regulations specifically exempting Native American individuals, communities or groups from tax. 35 ILCS 120/2 (2000 State Bar Edition). (This is a GIL.)

SALE FOR RESALE

ST 03-0048-GIL 03/28/2003  Certificates of Resale must contain the information found in 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 03-0049-GIL 03/31/2003  Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405. (This is a GIL.)

SALE OF SERVICE
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ST 03-0038-GIL 03/05/2003 Sales of service that are accompanied with the transfer of tangible personal property are subject to liability under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

SERVICE OCCUPATION TAX

ST 03-0002-GIL 01/03/2003 If tangible personal property is transferred incident to sales of service, this will result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 03-0042-GIL 03/07/2003 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based upon the tangible personal property transferred incident to sales of service. See, 35 ILCS 115/3 (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 03-0041-GIL 03/07/2003 Effective January 1, 2001 prepaid telephone calling card arrangements were no longer taxable under the Telecommunications Excise Tax Act, but became taxable as tangible personal property under the Retailers’ Occupation Tax Act, Service Occupation Tax Act, Service Use Tax Act and Use Tax Act. See Public Act 91-0870. (This is a GIL.)
1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2003. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Description</th>
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<tbody>
<tr>
<td>Allocation</td>
<td>Definitions</td>
</tr>
<tr>
<td>Alternative Apportionment</td>
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<td>Apportionment – Payroll Factor</td>
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<tr>
<td>Base Income</td>
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<td>Compensation</td>
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<tr>
<td>Composite Returns</td>
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<tr>
<td>Credits – Foreign Tax</td>
<td>Withholding – Exemptions</td>
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</tbody>
</table>
Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.


3. Name and address of person to contact concerning this information:

   Linda Settle  
   Illinois Department of Revenue  
   Legal Services Office  
   101 West Jefferson Street  
   Springfield, Illinois 62794  
   Telephone: (217) 782-7055
ILLINOIS REGISTER

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ALLOCATION

IT 03-0006-GIL 02/13/2003 Nonresident individual is not subject to tax on retirement pay, Social Security or interest or dividends on personal savings.

ALTERNATIVE APPORTIONMENT

IT 03-0004-GIL 01/27/2003 Petition for alternative apportionment cannot be granted based on unsupported assertion that the statutory apportionment formula fails to properly apportion income.

APPORTIONMENT – PAYROLL FACTOR

IT 03-0009-GIL 03/13/2003 All compensation paid to employees is included in the payroll factor.

BASE INCOME

IT 03-0005-GIL 02/13/2003 Gain from distribution of stock excluded from federal adjusted gross income of an individual is excluded from Illinois base income.

COMPENSATION

IT 03-0001-GIL 01/06/2003 Gain on disposition of stock options characterized as compensation for federal income tax purposes is compensation for Illinois purposes as well and is allocated under IITA Section 304(a)(2)(B).

COMPOSITE RETURNS

IT 03-0004-PLR 03/24/2003 Partnership with two short taxable years within one calendar year may file a single composite return for partners allowed to participate in composite returns.

IT 03-0005-PLR 03/24/2003 Partnership with two short taxable years within one calendar year may file a single composite return for partners allowed to participate in composite returns.

CREDITS – FOREIGN TAX
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IT 03-0008-GIL  03/03/2003  Error in the Equivalency Chart for Iowa noted.

DEFINITIONS

IT 03-0011-GIL  03/17/2003  A qualified settlement fund is a corporation for Illinois income tax purposes. IT 99-0051 GIL amended.

EXEMPT ORGANIZATIONS

IT 03-0002-PLR  02/26/2003  An exempt organization is automatically exempt from Illinois taxation if it is exempt from federal income taxation.

IT 03-0007-GIL  02/19/2003  An exempt organization is automatically exempt from Illinois taxation if it is exempt from federal income taxation.

PUBLIC LAW 86-272/NEXUS

IT 03-0003-PLR  03/04/2003  Drop shipment of goods from Illinois suppliers to customers outside the state will not by itself create nexus for the seller.

IT 03-0010-GIL  03/14/2003  Installation services provided by the taxpayer would not be protected by Public Law 86-272.

REFUNDS – STATUTE OF LIMITATIONS

IT 03-0001-PLR  02/05/2003  The statute of limitations on refund claims does not preclude a taxpayer from claiming an increased foreign tax credit as an offset against a deficiency arising from a federal change, even if the statute of limitations has expired for filing a claim for refund based on the increased credit.

RETURNS – OTHER RULINGS

IT 03-0012-GIL  03/28/2003  Taxpayer unable to obtain a W-2 from an employer may use Form IL-4852 to report withholding.

SALES OUTSIDE THE ORDINARY COURSE OF BUSINESS (BULK SALES)

IT 03-0003-GIL  01/14/2003  The Department has no authority to order a purchaser who
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has withheld consideration while awaiting Department review of bulk sale notification to pay over the amount withheld.

WITHHOLDING – EXEMPTIONS

IT 03-0002-GIL 01/07/2003 Employer shall withhold Illinois tax pursuant to Form IL-W-4 claiming exemption from tax based on federal Form W-4 until notified by the IRS that the federal form is invalid.
## Issue Index

Rules acted upon in Volume 27, Issue 18 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

### Proposed Rules

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(Processing fee for credit cards purchases, if applicable.) $     1.50

**TOTAL AMOUNT OF ORDER** $ ______________

□ Check      Make Checks Payable To: **Secretary of State**

□ VISA □ Master Card □ Discover (There is a $1.50 processing fee for credit card purchases.)

Card #: _______________________________ Expiration Date: _______

Signature: _______________________________

Send Payment To: Secretary of State
Department of Index
Administrative Code Division
111 E. Monroe
Springfield, IL  62756

Fax Order To: (217) 524-0308

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